

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

**Calgary Co-operative Association Limited
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
P. Grace, MEMBER
R. Kodak, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	111101903
LOCATION ADDRESS:	6909 Macleod Trail SW
HEARING NUMBER:	68042
ASSESSMENT:	\$8,050,000

The complaint was heard on June 19, 2012, in Boardroom 5 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- A. Izard

Appeared on behalf of the Respondent:

- E. D'Altorio

Board's Decision in Respect of Procedural or Jurisdictional Matters:

[1] During the hearing, both Parties asked the Board to consider their identical evidence and argument previously submitted in an earlier hearing before the same members, related to the following property: **File:** 66379 **Tax Roll:** 101046407 **Decision #** 0830/2012-P

In the interests of efficiency, the Board agreed to do so.

Property Description:

[2] The subject property is an 114,532 sq.ft. (square foot) parcel of land, improved with a 30,175 sq.ft. "C" quality retail structure constructed in 1967, and comprised of 22,175 sq.ft. of developed retail area and 8,000 sq.ft. of storage area. The parcel is also improved with a 4,765 sq.ft. retail structure divided into two individual CRU's (Commercial Retail Units), a carwash structure, and a multi-island Gas Bar with overhead canopy, constructed in 2010.

[3] The subject property carries a land use designation of C-COR3, which allows for a maximum development density FAR of 1.0 (Floor:Area Ratio) and a maximum structure height of 12 metres. Although the parcel is improved, the property is assessed at the estimated market value of the underlying land, as though vacant, by means of the following formula:

	Formula	Area (Sq.Ft.)	Rate / Sq.Ft.	Value
1st	20,000 Sq.Ft.	20,000	\$ 100.00	\$ 2,000,000
	Area > 20,000 Sq.Ft.	94,532	\$ 60.00	\$ 5,671,920
Total		114,532		\$ 7,671,920
	Site Influence Adjustment:		+5%	\$ 8,055,516
	Truncated:			\$ 8,050,000
	Net Effective Land Rate		\$ 70.33	

Issues:

[4] The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment
4. an assessment class

[5] However, at the hearing the Complainant led evidence and argument only in relation to matter 3, an assessment amount. The Complainant set out 18 grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$5,420,000, however, at the hearing only the following issues were in dispute:

Issue 1: Is the assessment equitable in relation to the assessments of similar properties?

Issue 2: If the property is properly assessed at the value of the underlying land, what is the correct land rate applicable?

Complainant's Requested Value(s):

The Complainant requested an assessment of 6,390,000. (Income Approach)

The Complainant requested an alternate assessment of \$6,870,000 (as though vacant land).

Board's Decision in Respect of the Issues:

Issue 1: Is the assessment equitable in relation to the assessments of similar properties?

[6] The Complainant argued that the assessment does not reflect the typical market value of the subject property, and is inequitable with the majority of similar and comparable properties that have been valued by means of the income approach to value.

[7] In support of the argument, the Complainant provided an income approach calculation, setting out the indicated market value of the subject property at \$6,390,000, derived with the following coefficients:

- Vacancy Allowance 5.00%
- Vacancy Shortfall Rate \$8.00 per sq.ft.
- Non-Recoverable Allowance 1.00%
- Capitalization Rate 7.50%
- Net Rent rate (Storage Areas) \$2.00 per sq.ft.
- Net Rent rate (Carwash Structure) \$35,000
- Net Rent rate (Gas Bar & Canopy) \$70,000

[8] The Complainant argued that the income approach, using the above coefficients, has been applied to the majority of similar properties in the municipality, and should therefore also be applied in the valuation of the subject property.

[9] The Complainant applied the following net rent coefficients to the remaining leasable areas of the subject property:

- CRU Space (2,501 – 6,000 sq.ft.) \$22.00 per sq.ft.
- CRU Space (> than 20,000 sq.ft.) \$13.50 per sq.ft.

[10] In support of the \$22.00 per sq.ft. net rent rate coefficient, the Complainant provided a sample of eleven property leases in the corresponding size range and located on, or near Macleod Trail, commencing between August 2005 and July 2011 and exhibiting lease rates ranging from \$19.50 to \$31.00 per sq.ft., with median and mean lease rates of \$22.00 and \$22.90 per sq.ft., respectively. The Complainant also provided a subset of the five leases signed during 2010 and 2011 exhibiting median and mean lease rates of \$22.00 and \$23.59 per sq.ft., respectively.

[11] In support of the \$13.50 per sq.ft. net rent rate coefficient, the Complainant provided a sample of seven "Macleod Trail" leases, commencing between June 2004 and August 2011 and exhibiting lease rates ranging from \$6.62 to \$20.75 per sq.ft., with median and mean lease rates of \$13.50 and \$13.36 per sq.ft., respectively. The Complainant also argued that the subject's Macleod Trail location is not superior to other locations. In support of that argument the Complainant provided a further sample of five leases commencing during 2009 and located in areas other than on Macleod Trail, exhibiting median and mean lease rates of \$17.00 and \$17.85 per sq.ft., respectively.

[12] In support of the \$35,000 and \$70,000 net rent rates applied to the carwash and gas bar improvements, the Complainant provided two 2012 business assessment notices and a City of Calgary 2012 property assessment worksheet related to carwash and gas bar properties that are each assessed at the combined rate of \$105,000, as well as a list of thirty two service stations, of which thirteen have been assessed at the net rent rate of \$105,000.

[13] The Complainant further provided lease rate information for the thirty two service stations, in respect of leases commencing between April 1995 and December 2011 and exhibiting lease rates ranging from \$52,487 to \$176,993 with median and mean lease rates of \$92,948 and \$98,287, respectively.

[14] The Complainant argued that, in contrast, the assessment of the subject property has been prepared by means of a formula applied to the area of the parcel as though vacant, resulting in a total assessment value greater than that of other similar properties valued by means of the income approach. In support of the argument, the Complainant submitted the subject's original 2011 assessment notice exhibiting a value of \$6,890,000, and the subject's preliminary 2012 assessment of \$7,810,000; both prepared by means of the income approach.

[15] The Respondent submitted that the assessments of all similar properties are prepared by means of the income approach to value; however, where the indicated market value is less than the value of the underlying land, as though vacant, the vacant land value is determined to be the market value of the property. The Respondent argued that the approach is not a valuation of the highest and best use of the property as argued by the Complainant, and provided several Assessment Review Board decisions in support of the methodology.

[16] In support of the land rates applied, the Respondent provided four time adjusted sales of parcels that occurred between February 2010 and May 2011. In support of the \$100 per sq.ft. land rate applied to the subject property the Respondent called the Board's attention to the two parcels located on 16th Ave NE; both with C-COR 1 zoning that transferred at time adjusted rates in excess of \$100 per sq.ft.

[17] To demonstrate that the assessment was equitable, the Respondent provided three improved property comparables located along Macleod Trail that were also assessed by means of the Respondent's vacant land formula.

[18] In rebuttal, the Complainant argued that the Respondent's sales in support of the \$100 per sq.ft. land rate applied were dissimilar to the subject property in terms of location and zoning. The Complainant further argued that the sale of 505 16th Ave NE was not exposed to the market through a realtor or MLS, and therefore not a reliable indicator of market value; and the sale at 210 16th Ave NE was of an improved property where the improvement value would affect the sale price, with no adjustment made. The Complainant also argued that the Respondent's remaining two sales were invalid.

Decision: Issue 1

[19] The Board finds that the assessment of the subject property is inequitable in relation to the assessments of similar properties.

[20] The Board did not find the Respondent's two C-COR1 land sales to be compelling evidence of the market value of C-COR3 land located along Macleod Trail as both sales are significantly superior to the subject property with respect to potential development density, exhibiting maximum floor area ratios of 4.0 and 4.5 in contrast to the subject's maximum allowable floor area ratio of 1.0. Further, there was no market evidence provided to demonstrate that the C-COR1 zoning and locations along 16th Avenue were comparable to the subject's C-COR3 zoning and Macleod Trail location. The Respondent's two remaining C-COR2 land sales were also found to be unsupportive of the \$100 per sq.ft. rate applied to the subject property, as they exhibited sale prices of \$46.24 and \$59.10 per sq.ft.

[21] Although the Board accepts the Respondent's "land only" methodology in practice and agrees that it is not a valuation of the "Highest and Best Use" of the subject property, without market evidence of typical C-COR3 land values along Macleod Trail the Respondent has failed to demonstrate that the value of the underlying land, as though vacant, exceeds the Complainant's unchallenged income approach indication of market value.

Issue 2: If the property is properly assessed at the value of the underlying land, what is the correct land rate applicable?

[22] The Complainant argued that the Respondent's land rates applied to the subject property were in excess of typical land rates evident along Macleod Trail. In support of that argument the Complainant provided four sales of improved parcels located along Macleod Trail that transferred between November 2009 and July 2010, and sold at rates ranging from \$64.64 to \$120.93 per sq.ft., with a median rate of \$101.11 per sq.ft. of land area. From each sale price, the Complainant deducted an improvement value as determined by the cost approach to arrive at residual land values ranging from \$53.90 to \$79.03 per sq.ft., with a median rate of \$59.39 per sq.ft.

[23] The Respondent argued that the Complainant's sales were not sales of vacant properties but rather, of improved properties with significant building values, and as a result could not be relied upon to establish the market value of the land. The Respondent further submitted the ASR (Assessment : Sale Ratio) for each of the properties to demonstrate that the median ASR was 0.86, suggesting that the assessments were not excessive in relation to this sample.

Decision: Issue 2

[24] The Board finds that the value of the land, as though vacant, best represents the market value of the property as the value indicated by the Complainant's unchallenged (equity) income approach valuation is exceeded by the indicated values of the land, as though vacant.

[25] Although the Board has some concerns with respect to the "land residual" methodology employed by the Complainant, the Board finds that the Respondent's market indicators are not similar to the subject property as set out in the decision related to issue 1 above. Accordingly, the Board does not accept the Respondent's land rate of \$100 per sq.ft., and finds that the Complainant's \$60 per sq.ft. land value conclusion best reflects the market value of the subject property.

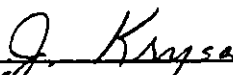
Decision:

The assessment is **revised** from: \$8,050,000 to: **\$6,870,000**

DATED AT THE CITY OF CALGARY THIS

25

DAY OF JULY, 2012.



J. Krysa,
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Submission (228 pages)
2. C2	Highest & Best Use Written Argument (29 pages)
3. C3	Complainant's Rebuttal Submission (166 pages)
4. R1	Respondent's Submission (104 pages)

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone (Automotive)	Income Approach Land Value/Zoning	Land Value (Vacant) exceeds Income Approach Value