

**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:

***Garry M Nameth and Irene T Nameth
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
R. Roy, MEMBER
B. Bickford, MEMBER***

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

ROLL NUMBER:	066091000
LOCATION ADDRESS:	1507 11 Avenue SW
LEGAL DESCRIPTION:	Plan 5380V, Block 206, Lots 14-15
HEARING NUMBER:	65363
ASSESSMENT:	\$ 809,500

- [1] This complaint was heard on the 19th day of July, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 3, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 10.
- [2] Appeared on behalf of the Complainant:
- J. D. Sheridan Agent, Linnell Taylor Assessment Strategies
- [3] Appeared on behalf of the Respondent:
- Y. Wang Assessor, City of Calgary
- [4] The following individual was present for all or part of the proceedings and did not appear on behalf of a party:
- J. Mayer observer arrived at 3:15 PM

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [5] No procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Property Description:

- [6] The subject – 1507 11 Avenue SW is located in an area commonly referred to as Sunalta and is zoned Commercial Corridor 1 District (C-COR 1 f3.0 h23) with a floor area ratio (FAR) of 3.0. The property is comprised of three buildings; the first was constructed in 1904 and is a 505 square foot, single-storey, house conversion utilized for retail use, the second was constructed in 1953 and is a 282 square foot, single-storey, commercial building utilized for retail use, and the third was constructed in 1991 and is a 103 square foot, non-assessed out-building.
- [7] The Respondent prepared the assessment with land and improvements using the direct sales comparison approach. The site has an irregular shape; along the frontage (11 Avenue) there is no access. The laneway provides the only access and it is a narrow strip approximately one-third the width of the frontage. Without assembling adjacent property the redevelopment potential, of this 5,300 square foot site, is minimal.

Matters and Issues:

- [8] The Complainant identified one matter on the complaint form:

Matter #3 - an assessment amount

Complainant's Requested Value:

- \$550,000

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount***

- [9] The Complainant contends (C1 p. 2) the subject's greatest value is achieved utilizing the direct sales comparison approach of the land, as if vacant. The Complainant described the property and its potential for medium or long-term redevelopment with assembly of adjacent parcels.
- [10] The Complainant testified (C1 p. 3) that they are unclear how the assessment was prepared but noted the 5,300 square foot land size when divided into the assessment achieved a value of \$153 per square foot.
- [11] The Complainant provided the Board with information (C1 p. 5) on their methodology when preparing a direct comparison approach to value; *"when several similar properties or commensurate commodities, goods or services are available, the one with the lowest price will attract the greatest demand and widest distribution."*
- [12] The Complainant considered four primary factors (C1 p. 5) when correlating their comparable land sales; time, location, physical characteristics, and zoning. The subject is characterized as an inner-city future development site and the comparables each share that characterization.
- [13] The Complainant compared four sales comparables to the subject:
- 1) The sale of the comparable located at 632 and 634 – 12th Avenue SE (C1 pp. 6, 10, 11, and 13) occurred June 16, 2011 – near valuation date and is located along 12th Avenue near 6th Street SW. This is considered to be an inferior location. It is serviced, accessible, flat, rectangular, and with 8,050 square feet of land making it superior in physical attributes. The zoning is Centre City Mixed Use District (CC-X), which overall is considered to be similar; however, it has additional FAR capability at 5.0. The net adjustment is a positive 2.5% resulting in an adjusted value per square foot of \$98.68.
 - 2) The sale of the comparable located at 322 and 326 – 14th Street NW (C1 pp. 7, 10, 11, and 13) occurred March 1, 2011 – four months prior to the valuation date. It is located along 14th Street near 3rd Avenue NW in the Kensington neighbourhood. This is considered to be a superior location, and it is accessible, larger (11,238 square feet), and has a rectangular shape resulting in superior physical characteristics. Zoning of Commercial Corridor 2 District (C-COR2 f2.8 h16) is considered to be comparable to the subject. Overall there is a net adjustment of -5% resulting in an adjusted value per square foot of \$105.67.
 - 3) The sale of the comparable located at 1832 – 10th Avenue SW (C1 pp. 8, 10, 11, and 13) occurred December 15, 2010, which is six-point-five months prior to the valuation date. It is located along 10th Avenue near 18th Street SW. This is considered to be an inferior location overall. However, this location may attract greater foot traffic once the current light rail train (LRT) improvements are complete in the fall of 2013. This

- comparable 9,980 square feet, flat, accessible, and rectangular in shape resulting in superior characteristics. Zoning for this site is a mixture of Direct Control Bylaw #64D2010 – Site 2 (DC) and City Centre Mixed Use District (CC-X) with a FAR of 5.0. Though relatively similar to the subject, the development potential is short to medium due to, the soon to be completed, Sunalta LRT station. The net adjustment is a negative 12.5% resulting in an adjusted value per square foot of \$98.68.
- 4) The sale of the comparable located at 1515 – 12th Street SW (C1 pp. 9-11, and 13) occurred August 3, 2010, which is nearly eleven months prior to the valuation date and is located along 12th Street near 15th Avenue SW. This is considered to be a superior Beltline location. For physical characteristics, this comparable is superior being a corner lot with a flat, 5,509 square feet, accessible, and rectangular shape. As for zoning, the City Centre Multi-Residential High Rise Support Commercial District (CC-MHX) may be considered superior. Overall there is a net adjustment of -45% resulting in an adjusted value per square foot of \$92.77.
- [14] The Complainant concluded that their research found a value for the subject between \$92.77 and \$110.47 per square foot of land area. Due to major adjustments, unclear motivation, and time differences, the fourth comparable was given little weight resulting in an average value for the remaining three sales comparables of nearly \$105.00 per square foot deriving a requested truncated value of \$550,000.
- [15] The Respondent disputed the position taken by the Complainant and explained to the Board that two methodologies were deployed to create the assessment; 1) a sales comparison approach as improved, and 2) calculated the subject as if vacant land. Both calculations arrived at nearly the same value; 1) \$809,652 for sales comparison as improved, and 2) \$821,500 as if vacant land. The Respondent truncated the lower of the two values arriving at \$809,500.
- [16] The Respondent presented additional information regarding the four sales comparables provided by the Complainant:
- 1) Complainant's sales comparable number one (R1 pp. 104-105): The unadjusted land value per square foot is \$96.32 compares to the Respondent's vacant land rate for the Beltline 1 submarket location of \$100.
 - 2) Complainant's sales comparable number two (R1 pp. 104-105): The unadjusted land value per square foot is \$111.15 compares to the Respondent's vacant land rate for the unidentified submarket location of \$60.
 - 3) Complainant's sales comparable number three (R1 pp. 104-105): The unadjusted land value per square foot is \$120.24 compares to the Respondent's vacant land rate for the unidentified submarket location of \$80.
 - 4) Complainant's sales comparable number four (R1 pp. 104-105): The unadjusted land value per square foot is \$160.65 compares to the Respondent's vacant land rate for the submarket location of \$155.
- [17] The Respondent presented a total of seven sales comparables; two sales comparables are house conversions based on land and improvements that give regard to; location, zoning, area, year of construction, and timing. These sales were both in the Beltline district.
- [18] The Respondent's house conversion land and improvements sales comparables are:
- 1) The sale of the comparable located at 816 – 13th Avenue SW (R1 pp. 15-18)

occurred June 1, 2010 – over a year prior to the valuation date and is located along 12th Avenue near 7th Street SW. Property attributes are provided by way of a third party report. The zoning is Direct Control Bylaw #5D2009 (DC) which is intended to imitate Centre City Multi-Residential High Rise District (CC-MH). No adjustments or calculations are provided by the Respondent. The third party report arrived at a value per square foot of \$308 based on gross building area. The Board calculated a value per square foot of \$434 using the values supplied by the Respondent.

- 2) The sale of the comparable located at 903A – 15th Avenue SW (R1 pp. 15 and 19) occurred March 9, 2010 – well over a year prior to the valuation date and is located along 15th Avenue near 9th Street SW. Some physical attributes are provided by way of a third party report. The zoning is Centre City Core District (CC-COR). No adjustments are provided by the Respondent. The Board was able to calculate values per square foot of \$673 and \$735. The variance in calculations is because the third party report (R1 p.19) and the Respondent (R1 p. 15) indicate different values for gross building area.
- [19] The Respondent also presented five land-only sales comparables with different factors being reported including the common factors of; location, zoning, land area, and timing. These sales were all in the Beltline area.
- [20] The Respondent's land only sales comparables are:
- 3) The sale of the comparable located at 1515 – 12th Street SW (R1 pp. 22-34) is the same sales comparable as the Complainant's number four. This sale occurred August 3, 2010 – nearly eleven months prior to the valuation date and is located along 12th Street near 15th Avenue SW. The zoning is City Centre Multi-Residential High Rise Support Commercial District (CC-MHX). A 5% adjustment was provided by the Respondent for a corner lot arriving to an adjusted value per square foot of \$153 based on gross land area.
 - 4) The sale of the comparables located at 1512 and 1514 – 14th Street SW are adjacent properties with near simultaneous sales (R1 pp. 22 and 35-50) occurring September 1, 2010 and September 16, 2010 with identical vendors and purchasers. The properties are both located along 14th Street near 15th Avenue SW. Both properties were improved with tenants occupying the respective buildings. The zoning is listed as Commercial Corridor District (C-COR). The Respondent removed the attributed value of the buildings to arrive at an as if vacant adjusted per square foot value of \$153.
 - 5) The sale of the comparables located at 119 and 123 12th Avenue SW are two adjacent properties with simultaneous sales (R1 pp. 22 and 51-71) occurring January 12, 2011 with identical vendors and purchasers. The properties are both located along 12th Avenue near 1st Street SW. One property is improved with a building that is being used for office space. The zoning is listed as Centre City Mixed Use District (CC-X). The Respondent added 25% to the sale amount to recognize the contamination on site, and then removed the attributed value of the building, to arrive at an as if vacant adjusted per square foot value of \$127.
 - 6) The sale of the comparable located at 1203 MacLeod Trail SE (R1 pp. 22 and 72-83) occurred May 27, 2011. Located along MacLeod Trail near 12th Avenue SE. Property sold as a land assembly of six previously individual parcels. The zoning is listed as Centre City Mixed Use District (CC-X) however the detail in the report shows a vast array of zoning. The Respondent adjusted the sale by 5% for a corner lot, and then removed the attributed value of the multiple buildings, to arrive at an as if vacant

- adjusted per square foot value of \$168.
- 7) The sale of the comparable located at 1811 – 4th Street SW (R1 pp. 22 and 84-103) occurred June 28, 2011 – nearly on valuation date. It is located along 4th Street near 18th Avenue SW. Property was improved with one building which was subsequently offered for lease. The zoning is listed as Commercial Corridor 1 District (C-COR 1). The Respondent removed the attributed value of the building to arrive at an as if vacant adjusted per square foot value of \$258.
- [21] The Respondent provided twenty-one land equity comparables (R1 pp. 106-107) indicating an unadjusted land rate of \$155 per square foot.
- [22] The Board notes that the Respondent in their equity materials seems to suggest an assessment of \$821,500 for the subject versus the \$809,500 actually assessed. The Board, with this information concludes these are land value only calculations but does not have documentation to show if they were actually assessed at the values shown within the chart. Also of note are, the multiple occurrences of corner lot influence adjustments with more than 75% of the sample receiving an adjustment. The Board did not receive any evidence to support the calculation or application of a 5% corner influence.
- [23] The Complainant provided a Rebuttal Document to refute the presentation of the Respondent. The Complainant provided insight on the following:
- 1) Respondent sales comparables, located at 903 – 15th Avenue SW and 816 – 13th Avenue SW (C2 p. 3) are house conversion properties, which trade as land and improvements; therefore, are typically compared on the gross building area. The Respondent calculated a value of \$734.91 per square foot for one comparable and \$433.76 per square foot for the other comparable arriving at an average of \$584.34 per square foot. The Assessment for the subject using the entire 890 square feet versus the assessed area of 782 square feet arrives at \$909.55 per square foot. By accepting the Complainant's requested assessment of \$550,000 (\$617.98 per square foot) the subject would be within 5% of the Respondent's house conversion comparables average.
 - 2) The subject's Property Assessment Detail Report (C2 p. 3 and R1 p. 7) indicates a market influence for the 'Traffic Main'. The Complainant asserts that this property qualifies for the reduced functionality shape adjustment of 15%, which has not been applied.
 - 3) Respondent sales comparables located at 119 and 123 – 12th Avenue SW (C2 p.4) have not been adjusted properly and should be \$96.46 per square foot.
 - 4) Respondent sales comparables located at 1512 and 1514 – 14th Street SW (C2 p. 4) Are not vacant land sales and were sold as an income generating properties.
 - 5) Respondent sales comparables located at 119 and 123 – 12th Avenue SW (C2 p. 4) are not both vacant land sales; with one being sold as an office building for the owner, and the other for parking for the office space.
 - 6) Respondent sales comparable 1203 MacLeod Trail SE (C2 p. 5) is sixteen times the size of the subject, has a superior land use designation, has many buildings including an office building, is located in a busy and desirable location, and was not an arm's length transaction.
 - 7) Respondent sales comparable located at 1811 – 4th Street SW (C2 p. 5) is not a vacant land sale; in fact, a ten year lease expiring October 14, 2021 exists for this property. In addition the Respondent's value attributed to the improvements seems suspect, and the location is superior.

- [24] The Complainant concludes that the Respondent has failed to supply any useful land sales comparables; however, the Respondent's house conversion comparables support the Complainant's request of \$550,000.
- [25] The Board carefully sifted through all the material submitted by both parties and determined these facts:
- 1) The subject is not a vacant parcel, it is a house conversion, and it is 100% occupied with revenue generating business(es).
 - 2) The subject is small, has poor access, and has a problematic shape, making it difficult to redevelop as the current zoning contemplates.
 - 3) Assembly of the subject with adjacent property is necessary in order to successfully redevelop, which is unlikely in the near future.
 - 4) From a land valuation perspective, the subject suffers from shape influence as identified on the 2012 Beltline Influence Chart (R1 p. 21).
- [26] The Board finds many problems with the sales comparables provided:
- 1) Time: only two sales occurred near the valuation date. None of the sales comparisons provided by the Respondent were time adjusted with no comment provided as to why there is no need to time-adjust.
 - 2) Location: of the sales that possibly could be used as comparables, there were no appropriate adjustments made for difference in location. The Board cannot accept that a property located on a busy through-fare can somehow be similar to the subject's land value. The extreme diversity of location influences exhibited in the Beltline District are not reflected in the Complainant's evidence nor the Respondent's 2012 Beltline Non-Residential Land Rates chart (R1 p. 20) and therefore not reflected in adjustments of sales comparables.
 - 3) Physical characteristics: the Board finds little comparability between any of the comparables. The two best comparables from either party are the house conversions provided by the Respondent, which still are not comparable.
 - 4) Zoning: the Board finds comparability in zoning; however, the subject cannot utilize the zoning it has without being assembled with other adjacent property.
- [27] **The Board finds lacking evidence to support an appropriate value for the subject. Furthermore if the Board accepts the \$155 per square foot BL 5 land value shown on the 2012 Beltline Non Residential Land Rates chart (R1. P. 201) than a shape factor adjustment must be applied.**

Board's Decision:

- [28] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a value of \$688,000, which the Board finds is market value for the subject and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF Aug 2012.


J. Dawson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure – 31 pages
2. R1	Respondent Disclosure – 67 pages
3. C2	Complainant Rebuttal Disclosure – 45 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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Sales Approach	Land Value
				Land and Improvement Comparables