

**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:

Germain Residences Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Wood, PRESIDING OFFICER

D. Julien, MEMBER

J. Pratt, MEMBER

These are complaints to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBERS:	201561370 201561362
LOCATION ADDRESSES:	126 9 AV SW 128 9 AV SW
HEARING NUMBERS:	64128 64129
ASSESSMENTS:	\$106,000 \$ 18,160

These complaints were heard on 29 day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Ms. S. Sweeney- Cooper* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. D. Grandbois* *Assessor, City of Calgary's Assessment Branch*

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

The parties requested that these two properties be heard together as the evidence and argument would be similar for both complaints. The Board agreed with the parties' request.

Property Description:

The subject properties are two small vacant land parcels that form a lane-way between the Hotel Le Germain and the Encana office building. The legal descriptions are Plan 1011207 Block 63 Strata Lot 42 (128 9 AV SW) and Plan 1011207 Block 63 Strata Lot 43 (126 9 AV SW). They are 283 sq. ft. and 48 sq. ft. respectively. The land use designation is CM-2, Downtown Business District. These properties were assessed for the first time this year.

Issues:

1. Should the subject properties be assessed based on a nominal value of \$1000 each?

Complainant's Requested Values: \$1,000 (for each property)

Board's Decision in Respect of Each Matter or Issue:

The Complainant submitted that the full market value is not correct for these two small parcels. She argued that the land rate of \$375.00 psf for the downtown core is not a realistic value given the size and location of the subject properties. The Complainant submitted that these lands are not developable. The Complainant provided the Land Title Certificates for the subject properties (Exhibit C1 pages 15-22).

The Complainant submitted three equity comparables that were assessed at \$1000 which had influences of shape (reduced functionality), residual parcel (small) and residual setback parcel (downtown) applied to the assessments (Exhibit C1 pages 23- 25). She also provided an example of a condominium roadway that was given \$0 value by the City of Calgary which had the shape factor (reduced functionality) applied to its assessment (Exhibit C1 page 26). Based on these equity comparables, the Complainant submitted that a nominal value should be applied to the subject properties.

The Respondent submitted that the subject parcels, despite their size, have functionality. They

form a laneway between the Le Germaine hotel and the Encana office building. He suggested that the parcels lead to the valet entrance to the hotel from this area. The Respondent submitted the Complainant's equity comparables are not similar to the subject properties (Exhibit R1 page 13). The three comparables which include the residual setback parcel (downtown) influence are road setbacks which are directly between the road and another parcel (Exhibit R1 pages 20-22). The fourth comparable is a condominium unit paved and used as a public road (Exhibit R1 page 23). He submitted its value is encompassed in the assessments for the adjacent power centre retail properties. Based on the lack of comparability, he submitted that the Complainant's equity argument fails and the assessments for these two properties should be confirmed.

The Board is not convinced that the Complainant's equity comparables of residual setback parcels and a condominium roadway are similar to the subject properties to warrant a \$1000 assessment.

In response to the Board's questions, the Respondent acknowledged that influences based on shape (reduced functionality) (-15%) and residual parcel (small) (-15%) could have been applied in this instance but were not due to the lack of market evidence.

The Board notes these are unique parcels of land and were assessed for the first time this year. The Board also recognizes the Complainant is not requesting a reduction in value based on any site influences, but solely on the nominal value of \$1000 each.

The Board finds that these two parcels, which are 26m² and 5m² in size, are not developable. Moreover, these properties would have negligible value if they were absorbed into either the hotel or office assessment (both of which are based on the income approach to value). At a minimum, the majority of the Board finds that the influences of shape (reduced functionality) (-15%) and residual parcel (small) (-15%) should have been applied in this instance and therefore reduces the properties' assessments on that basis.

Dissenting Reasons:

It is the opinion of panel member, Dwight Julien, a reduction to the assessment value is unwarranted.

The Complainant requested a nominal value of \$1000 to each adjoining site based on three examples of small, land residual parcels. The base rate of \$375 psf applied by the Respondent was not challenged.

There are two separate roll numbers to the subject property which is not a road allowance. The Complainant produced a Land Titles Certificate; however, no reference was made to the caveats nor was any explanation given to the Board. There is also no market evidence to suggest a reduction to the base rate. The nominal value request by the Complainant is unfounded based upon the inequitable examples from the Complainant.

Board's Decision:

The decision of the Board is to reduce the 2011 assessments for the subject properties as follows:

- The property located at 126 9 AV SW the assessment is reduced from \$106,000 to \$74,000; and
- The property located at 128 9 AV SW the assessment is reduced from \$18,160 to \$12,700.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF August 2011.



Lana J. Wood
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

EXHIBIT NO.	ITEM
1. C1	Complainant's Brief
2. R1	Respondent's Assessment Brief

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.*