

**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:

Bowmac Holdings Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, Mr. J. Fleming
Board Member Ms. S. Rourke
Board Member Mr. J. Rankin***

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: 200790301

LOCATION ADDRESS: 8455 Macleod Tr. SW

HEARING NUMBER: 65410

ASSESSMENT: \$619,500

This complaint was heard on 23rd day of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- Mr. P. Robinson for the Complainant

Appeared on behalf of the Respondent:

- Mr. E. D'Altorio, Ms. V Lavalley for the Respondent

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

There were no preliminary procedural or jurisdictional issues.

There was no objection to the composition of the panel.

Property Description:

The property is an unimproved property comprising 0.643 acres of land. The property has a major topographical issue, dropping off steeply at the northwest of the lot. This lot was subdivided in 2003 to facilitate a sale which was never concluded. The property has a land use designation of DC/C-R3, and is valued on the Sales Comparison (land only) basis. The property receives a limited access influence of -25% and a topography influence of -30% (subsequently corrected in the hearing to -50%) for a total influence adjustment of -75% (which is noted on the City Assessment Explanation Supplement as the Maximum Influence allowable).

Issues:

The Complaint form identified a number of issues as summarized below.

1. Is a 62.5% year over year increase justified for the subject?
2. Does the assessment adequately recognize the topography and the limited access to Macleod Trail?

Complainant's Requested Value:

\$390,525

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

The value increase from 2011 to 2012 is justified due to the increase in the land values along Macleod Trail.

The assessment adequately recognizes the topography and access issues to the site. Accordingly, the complaint is denied and the assessment confirmed at \$619,500.

Board's Decision:

The Complainant advised that their request for a value was originally based on a 2.5% increase the same as the neighbouring improved property which they also own. This resulted in a requested assessment of \$390,525. After reviewing all the information, they amended their request in their rebuttal to \$386,250. The basis for the change will be outlined below.

The Complainant summarized the history of the property, noting that up till 2003, the property was part of the neighbouring property and was "zero rated" which was explained as paying no taxes. In 2003, the owners entered into a conditional sale which was subsequently abandoned

(after subdivision had been completed) because the cost of remediating the topography issue to the City's satisfaction (\$1,500,000) was prohibitive to any development. The Complainant further noted that the property had no access to Macleod Trail except through an access agreement across the neighbouring property, and they pointed out that due to location, the site exposure was impaired.

They noted that the property had been listed for lease/sale for over 15 years with no deals ever consummated.

One of the major frustrations identified by the Complainant was that he had successfully appealed his assessment 3 years in the past, and each subsequent year the City had raised the value again. He asked if there was a method to compel the City to adjust their market value algorithm to recognize the true value of the property so that the Complainant would not have to appeal (successfully they represented) year after year.

In their rebuttal, the Complainant reviewed the Comparables put forward by the City. Two of the properties they felt were superior to the subject (Ex. R1. Pg 15) Comp. #1 and Comp. #3 and one of the Comparables (Comp #2) they noted had a much lower assessment in 2010. They suggested that these Comparables would support a value of \$60.00 per sq. ft. for the usable portion of the site which they calculated as 12,875 sq. ft.. This value, they argued however, did not adequately recognize the topography issue on the subject site, and so they were proposing a further 50% reduction (although no support for the 50% number was provided). As a result, they were amending their request to \$386,250 (12,875 sq. ft. * \$60.00 per sq. ft. * 50%).

The Respondent advised that the land value on Macleod Trail had been calculated based on market evidence and they showed how they had provided 3 comparables (Ex. R1, pg.15) which they say supported the subject assessment. They advised that for 2010 the Macleod Tr. values were \$100.00, for 2011 \$60.00, and that for 2012 the values had been stratified with the first 20,000 sq. ft. at \$100.00 per sq. ft., the next 135,000 sq. ft. at \$60.00 per sq. ft., and the remainder at \$28.00 per sq. ft.

They cautioned against a simple division of the assessed value of the Comparables by the size of the site, because this did not recognize the stratification of values with size.

They corrected a "typo" in the value in R1 page 13 to reflect a land value of \$2,479,220. They also corrected the value of the influences by increasing the topography influence to 50%. This increased the total influences to -75% (but this calculation had already been factored into the \$619,500 assessment) which they indicated adequately recognized the topography and lack of access.

Finally, they referenced page 34 of their submission to highlight that a significant increase in year over year assessment was not a sufficient basis to support a change in the assessment. They said in this case, the increase resulted from an increase in the market value of Macleod Trail land.

The CARB considered all of the evidence and argument. While the CARB can appreciate the frustration of constant appeals, it is an annual appeal process, and unless the taxpayer can reach an ongoing agreement on the method of valuation with the City, this annual increase and appeal cycle is likely to continue particularly in a market as dynamic as Calgary's.

The only evidence of value provided by the Complainant was a criticism of the comparables put forward by the Respondent. In analysing the values of the Comparables, the CARB notes the Comparables all conform to the value stratification used by the City in 2012 to value Macleod Trail property. So, from a methodology standpoint the CARB finds that the valuation of the subject is equitable with the basis of calculation for the Comparables.

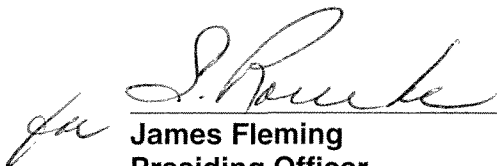
In deciding the issue of the value per sq. ft., the CARB notes that the Complainant argues that 2 of the Comparables are superior in location and access. The Respondent indicates that their market evidence which they did not provide indicates that all of the properties along Macleod Trail have the same value. The CARB notes that the Respondent's Comparables address some values on Macleod Trail but not the homogeneity of values up and down the Trail. The City further argues that the -75% influences afforded the subject property adequately address the site specific issues of the subject.

In the final analysis, the CARB concludes that the magnitude of the adjustment makes it difficult to vary the rate stratification and thus the value per sq. ft. as it is logical in the CARB's experience, that any major change in the value per sq. ft. would likely have an impact on the magnitude of the influences. In addition, the CARB did not receive compelling evidence from the Complainant that the valuation is wrong.

Accordingly, due to lack of evidence from the Complainant and the uncertainty of the relationship between the magnitude of the influences and the unadjusted value per sq. ft., the CARB confirms the assessment as noted above.

It should also be noted that as noted in R1 page 34, a significant year over year assessment increase does not automatically serve to bring the assessment under question, particularly in this case where the significant increase is explained by the land value increase.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF August 2012.


James Fleming
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent Disclosure

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 Official Use Only:

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Land Value	Cost/Sales Approach	Land Value