

**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:**

***830112 Alberta Ltd., COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair, Mr. J. Fleming  
Board Member 1, Ms. S. Rourke  
Board Member 2, 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:

<b>ROLL NUMBER:</b>	<b>201077427</b>
<b>LOCATION ADDRESS:</b>	<b>133 16<sup>th</sup> AV NW</b>
<b>FILE NUMBER:</b>	<b>66911</b>
<b>ASSESSMENT:</b>	<b>\$1,240,000</b>

This complaint was heard on 23<sup>rd</sup> 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. D. Seto 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 was no objection to the composition of the panel hearing the Complaint. There were no preliminary matters raised.

**Property Description:**

The subject is a parking lot fronting 16<sup>th</sup> Ave. NW and serving a condominium mall at 1623 Centre St. NW. The mall is structured as a retail/office condominium. There are 134 parking stalls located on 4 lots, 3 lots (100 stalls) are located at the south end of the mall and accessed from 15<sup>th</sup> Ave NW (this is also the location of a small second level parking structure). The 4<sup>th</sup> lot (which is the subject property) is located at the west end of the property contains 34 stalls and is accessed from 16<sup>th</sup> Ave. NW and 1<sup>st</sup> St. NW. The Mall was built in 1997. The land use is designated C-COR1 f6.0h28, and the property was assessed on the Sales Comparison method. The location has "Corner Lot" and "Traffic Main" influences.

**Issues:**

The Complaint form outlined a number of issues. There were primarily two issues discussed at the hearing.

1. Should there be a difference in assessment between parcels of land providing the same service for the same piece of land?
2. Is the land value on 16<sup>th</sup> Ave. too high relative to the value of land used for the same purpose on 15<sup>th</sup> Ave.?

**Complainant's Requested Value:**

**\$808,000**

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

The Complaint is denied and the assessment is confirmed at \$1,240,000.

**Board's Decision:**

The Complainant noted that the value of the parking lot on 16<sup>th</sup> Ave. had increased significantly from 2011 (\$808,000) to 2012 (\$1,240,000), whereas the value of the parking lots on 15<sup>th</sup> Ave. NW serving the same property had actually declined (Ex. C1, pg 14). They said this 53% increase in assessment didn't make sense and they were requesting the assessment be restored to the value of \$808,000 established in 2011.

They also pointed out that the City had land for sale quite close to their property, and this land was priced similarly to the assessment on their land, and the fact that this land hadn't sold should provide support that the subject is valued too high. They further noted that there was impaired access, because the parking lot was only easily accessible from the south side of the 16<sup>th</sup> Ave. NW because it was a divided road.

Finally, they noted that the owner of the subject was also the owner of the restaurant in the mall, and that they required the subject parking as a condition for operating the restaurant. They indicated that the restaurant had approximately 200 seats and required somewhere around 70 parking stalls. The Complainant attempted to introduce the occupancy permit for the restaurant to demonstrate the parking requirement, but the Respondent objected to the introduction of "new evidence". The CARB ruled that it was new evidence because it had not been disclosed to the Respondent within the required time period and so could not be introduced at this hearing.

The Respondent indicated that the land value on the subject property represented the land value on a major road based on sales comparisons of similar land, while the comparables advanced by the Complainant were valued based on their location on essentially residential streets with no exposure to a major roadway. This, they said, accounted for the difference in value between the 16<sup>th</sup> Ave subject at \$104.72 per sq. ft. and the 15<sup>th</sup> Ave NW. comparables at around \$60.00 per sq. ft.

The Respondent also provided 3 equity comparables located on 16<sup>th</sup> Ave., all reasonably close to the subject, with comparable zoning but less Floor Area Ratio (FAR) (Ex. R1, pg 15). They also provided details on the City listings noted by the Complainant, highlighting the assessments and the list price. The assessments were comparable to the subject property, and the listing prices were similar and comparable as well. This they submitted showed additional validity for the assessed value of the subject (Ex. R1, pg 16).

With respect to the high year over year assessment increase, the Respondent noted that the increase was based on market evidence, and they further pointed out that as been noted in several MGB & ARB decisions (see Ex. R1 pg. 35), year over year increases were not in and of themselves, a reason to change an assessment.

With respect to the parking requirements for the restaurant, the Respondent indicated they were not aware of the parking requirements, but would be prepared to review the matter for next year if presented with convincing evidence.

The CARB considered all of the evidence and argument. The CARB accepts the argument of the Respondent (City) that land on 16<sup>th</sup> Ave. is more valuable because of the location and exposure than the land on 15<sup>th</sup> Ave. The CARB notes that use of the land is a management decision, and so the fact that the Complainant used more valuable land for parking is not a reason to reduce the value of the assessment. Neither party provided evidence on the land use for the 15<sup>th</sup> Ave. parking, and the CARB notes that this may have been useful.

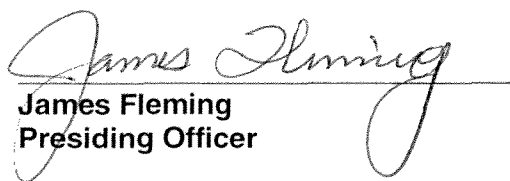
As to the quantum value of the land, the CARB accepts the value at \$100.00 per sq. ft., based on the value and assessment of the comparables provided by the Respondent (Ex. R1 pgs. 12, 15 & 16) . The CARB concludes that the fact that the comparables put forward by the Complainant have not sold is of little relevance at this stage, because the exact details of the length of time on the market was not provided and so no decision could be made that the listing price is too high. As well, the asking prices are consistent with the subject valuation.

Finally, with respect to the validity of high year over year assessment increases, the CARB reiterates the decision in DL 013/05 of the Municipal Government Board which indicates that high year over year increases are not a basis to change the assessment (Ex. R1, pg 35).

Accordingly, because the Complainant did not provide enough compelling evidence to question the assessment when compared to the evidence provided by the City, the assessment is confirmed.

Finally, the CARB notes that while the City opposed the introduction of evidence on the occupancy permit with the stated parking requirements, the City did indicate (with no guarantee of a change) that they would be prepared to review the assessment for subsequent years if provided with evidence substantiating the requirement.

DATED AT THE CITY OF CALGARY THIS 24<sup>th</sup> DAY OF August 2012.

  
James Fleming  
Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. 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.*

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Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Other Property Types	Parking	Land Value