

**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:

Balboa Land Investments Inc. (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

F.W. Wesseling, PRESIDING OFFICER

R. Deschaine, MEMBER

R. Kodak, MEMBER

This is a complaint 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 2012 Assessment Roll as follows:

ROLL NUMBER: 068127802

LOCATION ADDRESS: 1109 McLeod Trail SE

FILE NUMBER: 67011

ASSESSMENT: \$1,130,000.

This complaint was heard on 31st day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *D. Genereux*

Appeared on behalf of the Respondent:

- *L. Wong*

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

No specific jurisdictional or procedural matters were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint

Property Description:

[1] Property is located in the Beltline and contains 6998 square feet. A one story building, used for office/retail purposes, is located on the site and has 4565 square feet. The property fronts onto McLeod Trail and was constructed in 1958. For assessment purposes the property is classified as a Class "C" retail building. Under the City of Calgary Land Use Bylaw the property is classified with a land use designation of "Direct Control District"

Issues:

[2] The Complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount.

Presentation of the Complainant and Respondent were limited to:

- Assessment market value is overstated in relation to comparable properties.
- Income Approach vs. Cost Approach.

Complainant's Requested Value: \$850,000. Amended at the hearing to \$520,000.

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

[3] Complainant's Position: The focus of the Complainant's request is based on the assessment process applied to this property would be more appropriate using the income approach. The property is currently not for sale and no re- development plans are under review or contemplation. In addition, the complainant wishes to make a case that the capitalization (cap.) rate applied in determining the assessment should be raised to 8.75% from 7.75% should the income approach be applied to this property.

[4] The complainant presented data that in order to reflect an appropriate market value for the subject property, the income approach procedure using the direct capitalization methodology be utilized. This approach converts future expected rent into present value. In

support of the suggested approach the Complainant presented recent academic theory and teachings with regard to the Cost Approach as being the least favoured when estimating the value of a property.

[5] In order to show inequity with other properties in the area, background data was provided on properties and shown how they were assessed using the income approach. The subject property is assessed at \$218 per square foot while similar properties of an even higher quality are assessed on an average of \$176 per square foot (C1, p33). Similar properties with a class C rating should be assessed at a more favourable rate.

[6] The property is currently, according to the Complainant, being assessed for its potential to be developed to a different use. It was argued that the site accommodates an existing building and uses and that no plans are under consideration for the redevelopment of the property. No development permit or building permit application is under consideration by the owner and/or the City to show intent to re-develop the site. The Complainant suggests that to classify for assessment purposes, the property as a vacant site ready for redevelopment is an unreasonable assumption and contradictory to similar situations. The Complainant further outlined the availability of vacant land in the Beltline and suggested that with an over 100 year plus inventory, the feasibility of the subject property to be redeveloped is not very high as there are currently approximately 2 million square feet of vacant land available without demolishing a building.

[7] The basis for the Complainant's request for the cap rate increase is building classification. It is suggested that an appropriate building classification for the subject property is class C with an added risk factor of 0.50% due to the age of the building. An analysis was provided reviewing the hierarchical approach to the cap rates in the Downtown and the Beltline. No market or sales data was provide to support the cap rate change. Due to calculations errors, the requested assessed value was amended as stated above.

[8] Respondent's Position: The position taken by the City is that the real argument is the market value of the property and not its use. It is submitted that the assessment of the subject property reflects only the value of the land as the building on the site contributes little to the value. This approach is not unique to the subject property and is applied throughout the City of Calgary where the income generated by the improvement, capitalized, does not reflect market value. The income approach methodology is inappropriate for the subject property as the value is in the land. The current land use classification of the subject site allows for an FAR (floor Area Ratio) of 8.0 which would accommodate potentially a building of over 55,000 square feet on this site.

[9] Background was provided on previous ARB decisions concerning this site as well as similar situations. This property has been valued, for assessment purposes, in this manner for a number of years and confirmed on previous complaints. The assessed land rate per square foot for the subject property is \$155 per square foot. In support of the value applied to the property, the Respondent outlined 5 property sales in the Beltline. The median adjusted sale price per square foot of the sales outlined was \$167 (R1, p25). It was noted by the Respondent that the Complainant had expressed no concerns with the assessed land value per square foot of the property and that no evidence was brought forward to challenge it.

Board's Decision:

[10] Upon reviewing the verbal and written evidence provided by the parties, the Board found that the Complainant failed to demonstrate that the assessment was in excess of market value.

The Board confirms the assessment at \$1,130,000.

[11] Reasons:

a. The Board found that the assessment approach used by the City demonstrated a consistent application throughout the City and that this approach is one of the three accepted valuation methods.

b. Based on the sales information presented, the Board finds that the assessment of the subject property is fair and equitable.

c. No evidence was submitted to dispute the \$155 per square foot land assessment rate.

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


F.W. Wesseling
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Written Argument
2. R1	Assessment Brief
	Complainant Disclosure
	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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<i>Decision No.</i>		<i>Roll No.</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Office/retail Building	Land Value vs Income Approach	Approach	Highest and best use