

**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:**

***COPEZ PRPPERTIES LTD, COMPLAINANT  
(Represented by Altus Group Ltd.)***

**and**

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

**before:**

***Board Chair     P. COLGATE  
Board Member   D. JULIEN  
Board Member   T. USSELMAN***

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:

<b>ROLL NUMBER:</b>	<b>067232603</b>	<b>067232702</b>
<b>LOCATION ADDRESS:</b>	<b>942 10 AVENUE SW</b>	<b>944 10 AVENUE SW</b>
<b>FILE NUMBER:</b>	<b>67905</b>	<b>67911</b>
<b>ASSESSMENT:</b>	<b>\$888,500.00</b>	<b>\$129,500.00</b>

This complaint was heard on 7 day of August, 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:

- Michael Cameron, Altus Group Ltd – Representing Copez Properties Ltd.
- Daryl Genereaux, Altus Group Ltd – Representing Copez Properties Ltd.

Appeared on behalf of the Respondent:

- Erin Currie – Representing the City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

[2] A joint request was made by the Complainant and the Respondent for the hearings on roll numbers 067232603 (File # 67905) and 067232702 (File # 67911) to be heard as one. The parties indicated that the evidence was identical for each roll number, with the exception of the legal identifiers, the physical size of the individual lots and the requested revised assessment.

[3] The Board ruled that in the interest of efficiency, and recognizing the evidence to be presented for the two hearings was identical, the hearings would be heard together. The Board would base its decision for the two complaints based upon the evidence presented.

[4] There being no other preliminary matters the merits of the complaints were heard.

**Property Description:**

[5] The two adjacent properties under complaint are located in the Beltline area of The City of Calgary, with a Land Use Designation of CC-X. The parcel at 942 10 Avenue SW has a land area of 8,189 square feet, with site influences for abutting a train track (-15%) and for shape factor (-15%). The parcel at 944 10 Avenue SW has a land area of 1,521 square feet, with site influences for abutting a train track (-15%), for shape – reduced functionally (-15%) and for being a residual parcel (-15%). The parcels have been assessed at a base land rate of \$155.00 per square foot established by the Direct Comparison Approach. Both properties are currently being used as parking lots, with a portion being used as pay parking.

**Complainant's Requested Value:** Nominal value of \$750.00 for each of the properties.

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

[6] In the interest of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the

hearing.

[7] Both the Complainant and the Respondent submitted background material in the form of ground level photographs, site maps and City of Calgary Assessment Summary Reports.

[8] Both parties also placed Assessment Review Board decisions before this Board in support of their positions. While the Board respects the decisions rendered by those tribunals, it is also mindful of the fact that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless issues and evidence were shown to be timely, relevant and materially identical to the subject complaint.

### **Issue 1:**

#### **Is there contamination present on the subject properties requiring recognition?**

##### **Complainant's Evidence:**

[9] The Complainant requested a -30% adjustment to the subject properties in recognition of the contamination of the subject properties. The requested percentage is taken from a chart the Complainant stated was from the City of Calgary. (C1, Pg. 29)

[10] A report titled "Summary of Environmental Drilling Assessment and Underground Storage Tank Removal", dated July, 1996 was submitted into evidence by the Complainant. (c1, Pg. 31-67) A portion of the report dealt with the analysis of the City of Calgary Fire Hall #2 site located immediately to the west of the subject properties.

[11] It was the contention of the Complainant the report indicated a contamination of the parcel adjacent to the subject and therefore an environmental adjustment should be applied to the two subject properties.

[12] The Complainant submitted a decision for CARB 275/2011-P in which recognition for site contamination had been applied. (C1, Pg. 68-71)

##### **Respondent's Evidence:**

[14] The Respondent entered into evidence the "2012 Beltline Land Influence Chart" (R1, Pg 44) which indicated the adjustment for Environmental Concerns is -25%, not the -30% the complainant indicated as the City of Calgary allowance.

[15] The Respondent noted the study submitted by the Complainant was not a full environmental analysis within recommendations for remediating if required. The Respondent noted there were no parcels the area with an allowance for environmental concerns, as shown by Property Assessment Detail Reports for 1020 10 Avenue SW, 1010 10 Avenue SW (the Fire Hall), 942 10 Avenue SW and 944 10 Avenue SW. (R1, Pg.95-99)

[16] The Respondent submitted an approved City of Calgary Development Permit (DP2006-2046) for the subject property at 942 10 Avenue SW. It was the position of the Respondent a development permit would not have been issued if a contamination problem existed on the parcel.

#### Findings of the Board on Issue 1:

[17] The Board found there was no support for the adjustment value of -30% as presented by the Complainant. The table present has no identification as being a City of Calgary document. The Respondent has submitted a document which is identified as being a table employed by the City of Calgary.

[18] The environmental report submitted by the Complainant indicated there may have been historically an environmental concern on the adjacent property, but upon reading the report there were statements which indicated the problem has been rectified. Most notable is the Summary of the report which states:

"It appears that at Firehall #2 there is no residual subsurface petroleum hydrocarbon impacts exceeding Level II of the Risk Management Criteria based upon the following findings:

1. The hydrocarbon source has been removed.
2. The site drilling assessment indicated that there were only minor petroleum impacts to the soil and ground water outside of the tank nest.
3. Tank bedding material which exhibited petroleum hydrocarbon odours and occasional grey staining were excavated and transported off-site for landfill disposal." (C1, Pg. 47)

[19] It is the opinion of the Board that although an environmental concern may have existed it appears to have been corrected through the removal of the contamination source.

[20] The Board found no evidence by the Complainant that any environmental concerns are associated with the subject properties.

[21] The Board finds no ground for an adjustment based upon environmental concerns.

#### **Issue 2:**

**The based rate of \$155.00 per square foot applied is inequitable as the subject properties are required for use as parking to support the adjacent development at 999 8 Street SW and should be valued at a nominal rate of \$750.00 to enjoy equity with similarly restricted properties.**

[22] The Board noted the Complainant suggested there were two separate issues, parking and equity, for the subject properties. The Board will address the two subjects as one issue with recognition to both, as the evidence is important to both.

#### Complainant's Evidence:

[23] The Complainant submitted the sites are used to provide parking for the office building at 999 8 Street SW. In similar situation, where a link exists between the properties the vacant parcel is reduced in value. The Complainant requests that recognition be given to an assessment value of \$750.00 (C1, Pg. 73)

[24] The Complainant put forward an argument, under Highest and Best Use that there is an oversupply of vacant land in the Beltline which will not be absorbed for a significant period of time. It was the conclusion of the Complainant the sites should be valued as to current use as parking lots for the office building as opposed to vacant land. (C1, Pg. 73-77)

[25] The Complainant submitted copies of the Land Title Certificates for the two subject

properties and the office building to show ownership by Copez Properties Ltd. (C1, Pg. 79-89)

[26] The Complainant submitted a site map of the subject properties showing the location of the parking stalls and a copy of the City of Calgary Assessment Request for Information, date April 19, 2010. (C1, Pg.90-92)

[27] The Complainant submitted a "Summary Sample of Assessment Linked Parking Parcels" containing 11 properties with assessments of \$750.00 or \$1000.00. (C1, Pg. 94-124) It was the argument of the Complainant that similarly utilized parcels had been assessed at a reduced value when used as parking for an adjacent property.

#### Respondent's Evidence:

[28] The Respondent, by submitting the Land Title Certificates for the two subject parcels, showed there was no caveat registered to link the subject parcels to the office building to show the parking was necessary for the office building. (R1, Pg.11-36). It is the position of the City of Calgary there must be a permanent caveat, created through either a development permit application or a planning requirement, before a link had been established. A link created by the owner of the property is not recognized by the City of Calgary as it can also be removed by the owner. If a permanent link is in place then recognition of a reduced valuation is applied.

[29] With respect to the 'linked' properties submitted by the Complainant the Respondent submitted documents from Alberta Land Titles to show the properties were encumbered by caveats which permanently linked the use of the vacant lots to improved parcels. (R1, Pg.56-87)

The Respondent submitted CARB 0675/2012-P which spoke to the issue of parking provided to adjacent office buildings. The Board, in the cited decision, based the confirmation of the assessment in part on the lack of caveat or restrictive covenant necessary to establish the need for the parking for the office building. (R1, Pg. 48-54)

#### Findings of the Board on Issue 2:

[30] The Board found that while the Complainant stated the subject parcels were used by the office building at 999 8 Street SW it failed to establish a need for the parking to supply the tenants of the office. Without this evidence it could be assumed the parking was additional spaces that are offered as an incentive to attract tenants.

[31] The Board finds the Respondent demonstrated there was not a caveat or restrictive covenant in place on the subject properties. Therefore, the subject parcels having no restriction could be developed or sold in the future.

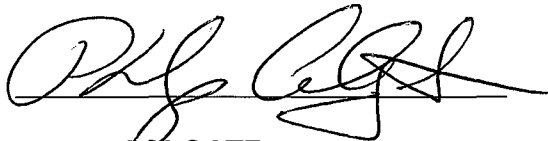
[32] The evidence presented by the Respondent shows the lower assessment values are applied when a caveat or restrictive covenant are in place on the title of the property, as in the case of the Complainant's comparables.

[33] The Board finds the lack of legal encumbrance to the future use of the properties and the failure to show a need by the office building for the parking does not support the requested adjustment to the assessment on the basis of equity or restricted use.

**Board's Decision:**

[34] For the reasons stated, the Board confirms the assessment at \$888,500.00 for roll number 067232603 and \$129,500.00 for roll number 067232702.

DATED AT THE CITY OF CALGARY THIS 14<sup>th</sup> DAY OF September 2012.



**PHILIP COLGATE**  
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. R2	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 ADMINISTRATIVE USE

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