

**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:

***Beacon Heights Shopping Centre Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
D. Pollard, MEMBER
B. 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 2011 Assessment Roll as follows:

ROLL NUMBER:	201286598
LOCATION ADDRESS:	12024 Sarcee Trail NW
HEARING NUMBER:	62853
ASSESSMENT:	\$13,220,000

The complaint was heard on July 11, 2011, in Boardroom 12 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- B. Neeson

Appeared on behalf of the Respondent:

- T. Johnson

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is a 13.52 acre (ac.) parcel of land in the process of development as a shopping centre, known as Beacon Heights Shopping Centre. As of December 31, 2010, the site was improved with a 6,718 sq.ft. (square foot) freestanding bank structure constructed in 2010. The current assessment was prepared to reflect the value of the land, as though vacant.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment
4. an assessment class

At the commencement of the hearing the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter 3, an assessment amount.

The Complainant set out 13 grounds for the complaint in section 5 of the complaint form with a requested assessment of \$12,365,000, however at the hearing the Complainant withdrew grounds 5, 7, 10, 11 and 12, and led evidence and argument only in relation to the following issues:

Issue 1: The assessment of the subject property exceeds the rate evident from sales of comparable properties. Further, the assessment rate is affected by the Respondent's unit of measure (\$ per sq.ft.) methodology.

Issue 2: The physical characteristics (environmental influences) of the subject property have not been properly reflected in the property assessment.

Issue 3: The physical characteristics (topography) of the subject property have not been equitably reflected in the property assessment in relation to other properties.

Complainant's Requested Value:

At the hearing the Complainant requested the assessment be revised to \$8,780,000.

Board's Decision in Respect of the Issue:

Issue 1: The assessment of the subject property exceeds the rate evident from sales of comparable properties. Further, the assessment rate is affected by the Respondent's unit of measure (\$ per sq.ft.) methodology.

The Complainant argued that the Respondent's land assessment formula generates an assessment for the subject property in excess of its market value, and in excess of market indicators. In support of the argument, the Complainant submitted two vacant land sales, (detailed below), exhibiting an average sale price of \$928,634 per acre, in contrast to the current assessment of \$977,810 per acre [C1, p.68].

Address	Sale Date	Sale Price	Acres	Price / Acre
225 Panatella Hill NW	Nov 2008	\$9,812,000	10.25	\$957,268
8650 - 112 Ave NW	Nov 2010	\$8,604,000	9.56	\$900,000
Average / Median		\$9,208,000	9.91	\$928,634

The Complainant also submitted the subject's Land Title Certificate and related Transfer Document detailing the March 2008 transfer in the amount of \$10.00, with a sworn affidavit opinion of value of \$12,000,000, and argued that this value would represent the upper limit of the property, as a downward time adjustment would be required to reflect the current market value [C1, pp.26-32].

Although the Respondent argued that the Complainant's sale located at 8650 - 112 Ave NW had numerous easements affecting the value of the property, the Complainant pointed out that the assessment summary report at page 74 of C1 did not indicate a corresponding adjustment to the assessment of that property.

The Respondent submitted the commercial land formula establishing the assessment for the subject property as follows:

Sq.Ft.	Rate	Value	Acres	Rate / Acre
20,000	\$64.00	\$ 1,280,000	.46	\$2,782,608
568,805	\$21.00	\$11,944,905	13.06	\$ 914,617
Total 588,805		\$13,224,905	13.52	\$ 978,000 (rounded)

In support of the \$21.00 per sq.ft. land rate, the Respondent submitted the (time adjusted) sale of 225 Panatella Hill NW as the Complainant, as well as a subsequent sale of a subdivided portion of that parcel, detailed as follows:

Sale Date	Time Adj. Sale Price	Sq.Ft.	Sale Price Per Sq.Ft.	Acres	Equivalent Price / Acre
Nov 2008	\$9,812,000	445,401	\$18.73	10.225	\$ 815,879
Jun 2009	\$4,487,500	156,511	\$24.37	3.593	\$1,061,557
Average			\$21.55		\$ 938,718

In cross examination the Respondent conceded that the assessment calculation should have been adjusted downward by 15% for the portion of the site exceeding 10 acres in size, resulting in an assessment of \$13,086,500; however the Respondent indicated that he would not recommend a correction of the assessment to that amount.

Decision: Issue 1

The Board finds there was insufficient evidence to demonstrate that the assessment of the subject property exceeds the rate evident from sales of comparable properties. The Board further finds that the Respondent's chosen unit of measure (\$ per sq.ft.) is not inappropriate.

The Complainant's sales evidence exhibited a range of values between \$900,000 and \$957,268 per acre, however, the sales were not time adjusted to reflect the market as of the valuation date of the assessment, and therefore were afforded little weight by the Board.

The Respondent's sales evidence illustrates a time adjusted range of values from \$815,879 to \$1,061,557 per acre, and although the higher rate per acre supports the assessment of the subject, the Board notes that this rate reflects the sale price of a significantly smaller parcel than the subject. Further, although there was no evidence in support of the \$64.00 per sq.ft. rate applied to the first 20,000 sq.ft. of area, there was no relevant evidence presented by either party to establish an alternate rate that could be applied by the Board.

With respect to the calculation error conceded by the Respondent, the Board finds it inconceivable that the Respondent would refuse to put forward a correction to an assessment that is known to be incorrect.

Issue 2: The physical characteristics (environmental influences) of the subject property have not been properly reflected in the property assessment.

The Complainant provided site maps and relevant bylaws in support of the argument that the assessment of the subject property should be adjusted for environmental influences due to its proximity to the Spy Hill landfill, and the bylaw requirement to provide a site specific risk management plan to address methane gas identified beneath the site.

The Respondent argued that the subject is not unique with respect to specific risk management plan requirements and that notwithstanding this requirement, the development of the subject property is underway. As a result, an adjustment for environmental influences is unwarranted.

Decision: Issue 2

The Board finds that the physical characteristics (environmental influences) of the subject property have been properly reflected in the property assessment.

As there was no evidence presented with respect to Phase 1 or 2 environmental audits, and as the development of the subject site is underway, the Board finds that any risk management conditions imposed on the subject property obviously have been met.

Issue 3: The physical characteristics (topography) of the subject property have not been equitably reflected in the property assessment in relation to other properties.

The Complainant argued that the development of the subject property is significantly restricted as a result of sloping topography affecting the north, east and west areas of the site; and that the Respondent has failed to apply a typical - 30% adjustment to the subject property, as has been applied to similar sites. In support of that argument, the Complainant submitted a copy of the assessor's schedule of adjustments, indicating that a standard - 30% adjustment is applied to reflect topography influences. Also submitted was a municipal topographic map of the subject and two assessment summary reports illustrating that a topographic influence has been identified, and a - 30% adjustment has been applied in at least one instance [C1, pp.58-66].

The Respondent submitted an aerial photograph of the subject property and argued that, as over 75% of the subject site was available for development, the standard - 30% topography allowance was not warranted in this case.

Decision: Issue 3

The Board finds that the physical characteristics (topography) of the subject property have not been appropriately reflected in the property assessment.

The Board finds the Respondent's "standard" - 30% adjustment is inequitable as there may be instances when an adjustment of - 30% is insufficient, and other instances when it may be excessive. In this instance, the Board accepts that the affected lands may provide some value to the site with respect to development density; however, the evidence presented by both parties demonstrates that the subject is affected by topography issues which would restrict the development of the site to some degree, with no corresponding adjustment in the assessment calculation. Accordingly, the Board finds that a negative 30% adjustment is warranted to the affected area, calculated as follows:

	Sq.Ft.	Rate	Value	
First 20,000 sq.ft.	20,000	\$64.00	\$ 1,280,000	
	421,604	\$21.00	\$ 8,853,684	
25% (Affected Area)	147,201	\$14.70 *	\$ 2,163,855	*($\$21.00 \times 70\%$)
Total	588,805		\$12,297,000	(rounded)

Board's Decision:

The assessment is revised from \$13,220,000 to **\$12,297,000.**

DATED AT THE CITY OF CALGARY THIS 18 DAY OF AUGUST, 2011.


J. Krysa, Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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.*