

**REVISED
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:

Remington Development Corporation, as represented by AltusGroup, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, S. Rourke
Board Member 2, A. Wong***

These are complaints to the Calgary Assessment Review Board in respect of Property assessment s prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as outlined following. With the agreement of all parties, the complaints were dealt with concurrently.

LOCATION ADDRESS: 2455 – 96 Avenue. S.E., Calgary, Alberta
2487 – 91 Avenue S.E.
9358 – 23 Street S.E.
9372 – 23 Street S.E.
9468 – 23 Street S.E.
2456 – 96 Avenue S.E.
9223 – 23 Street S.E.
9355 – 23 Street S.E.
9461 – 23 Street S.E.
9577 – 23 Street S.E.
2429 – 91 Avenue S.E.
2403 – 96 Avenue S.E.
113 – River Rock Place S.E.
2488 – 91 Avenue S.E.
9580 – 23 Street S.E.

HEARING NUMBERS: 63094, 63096, 63109, 63112, 63115, 63118, 63119, 63120, 63122, 63124, 63125, 63127, 63128, 63130, 63613

ASSESSMENTS:	<u>File No.</u>	<u>Roll Number</u>	<u>Assessment</u>
	63094.....	200945871.....	8,460,000
	63096.....	200945889.....	1,930,000
	63109.....	200945897.....	3,170,000
	63112.....	200945905.....	3,170,000
	63115.....	200945913.....	3,170,000
	63118.....	200945921.....	1,950,000
	63119.....	200945947.....	5,620,000
	63120.....	200945954.....	5,620,000
	63122.....	200945962.....	5,620,000
	63124.....	200945970.....	3,170,000
	63125.....	200945988.....	1,930,000
	63127.....	200946002.....	1,074,000
	63128.....	200946010.....	128,500
	63130.....	201436078.....	8,680,000
	63613.....	200945996.....	1,950,000

These complaints were heard on the 12th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *D. Mewha*

Appeared on behalf of the Respondent:

- *J. Lepine*

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

Not Applicable

Property Description:

Notwithstanding the various addresses, the subject parcels form a contiguous tract of potential development land in the Riverbend community of South East Calgary. One of the parcels, at 113 River Rock Place, is a narrow sliver that was categorized by both parties as park land.

Issues:

(from the Evidence submission of the Complainant)

1. The Subject properties are assessed in excess of their market value as indicated by the direct sales comparison approach.
2. The subject properties are inequitably assessed with similar and competing properties.
3. Adjustments to the base rates have been applied inequitably and do not reflect the

hindrances to the subject properties.

4. The subject properties should minimally be applied a LUR adjustment and a limited access adjustment to account for their physical condition as of the valuation date.

Complainant's Requested Value:

The Complainant bases all of his amended assessment requests on a value based on \$525,000 per acre, except for 131 River Rock Place, to which he assigns a "notional" value of \$20,000 per acre. This property was assessed at \$128,500.00.

Evidence

In evidence, the Complainant provided some background information regarding the land use and state of development of the subject lands. For each land parcel, an Assessment Explanation Summary was included that showed the subject property's use as Commercial, LUD DC (pre IP 2007) and Land Use Guideline DC/C-COR2. It is the intention of the owners to develop the land with a business park similar to the uses in Quarry Park, which are designated I-1 and I-2. The Complainant also submitted a number of maps and aerial photographs indicating that access to all of the subject parcels is circuitous, and access to major arterials such as Deerfoot and Glenmore Trails is indirect.

The Board's attention was also drawn to the Land Use Guidelines, being DC 32Z91 and DC 42Z92. Among other things both LUC guidelines state " *Notwithstanding the aforementioned, uses pertaining to the preparation, storing and serving of food shall be prohibited.*" This is due to the proximity of a dry landfill operation in close proximity.

Furthermore, it was shown that C-COR2 districts are intended for commercial developments where small to medium scale retail and personal service businesses are located. This district is intended to provide a mix of auto-oriented and pedestrian-oriented buildings.

The September 2010 sale of the subject properties from Remington Development Corporation to Sun Life Assurance Company of Canada was entered into evidence. The transaction involved 18 parcels, including all of the subject lands. The total site size was 45.68 acres. The total price was \$24,000,000, or \$525,394 per acre. The previously referred to Land Use Guidelines were in effect at the time of the transaction.

An appraisal, with a December 31, 2009 effective date was entered into evidence. The appraisal was done by a division of the Complainant's company, but is considered independent of the matter at hand. The appraisal concluded a value for the subject lands of \$17,925,000 or \$457,000 per acre.

Ten land sales comparables were submitted. Per acre prices ranged from \$510,000 to \$578,035. It was the position of the Complainant that these properties were very similar to the subject in terms of access and permitted uses.

Six equity comparisons in the Quarry Park district presented by the Complainant revealed a median assessment of \$441,958 per acre.

The Complainant offered traffic volume statistics showing a 24 hour traffic count past the subject location at 1128 vehicles.

In response, the Respondent presented six land transactions, which were termed “commercial corridor”. According to the Respondent, the subject land is assessed on the same basis as land in the commercial corridor; i.e. \$65.00 per s.f. for the first 20,000 s.f., and \$21.00 per s.f. for anything over 20,000 s.f. The River Rock Place parcel is uniquely valued as Commercial – Future Urban Development.

Of the Respondent's comparables, one was shown to be a former McDonalds restaurant on Macleod Trail. A second transaction was not arms length. Four of the properties are in high profile locations. For comparison purposes, the following chart illustrates the relative traffic volumes past the subject and the Respondent's comparables.

Property	Daily traffic count
Subject	1,128
1619 – 3 Street NW	44,000
505 – 16 Avenue NE	38,000
4504 – 17 Avenue SE	27,000
7212 – Macleod Trail SE	55,000
3131A – 27 Street NE.	11,000 to 25,000
7000 – 11500 -35 Str. SE	over 75,000 on Deerfoot Trail

Board's Findings:

During the hearing, the Respondent stated that no adjustment had been applied to any of the subject properties to account for the use restrictions or the limited access. No reason was given as to why no adjustment had been made. In the Board's opinion, some sort of compensating adjustment would have been appropriate. In the Respondent's land valuation” model”, negative adjustments of 25 per cent apply to each one of those factors.

The Complainant referred the Board to decision No 2255/2010-P of the Assessment Review Board decision on this matter. While this Board is cognizant of previous Board decisions and Court orders, it is not bound by them.

By reason of the Land Use restrictions in the DC guidelines applicable to the subject, as well as the daily traffic counts, the Board finds that the Respondent's comparables are simply not comparable to the subject lands.

The ten comparables submitted by the Complainant, as well as the six equity comparisons in Quarry Park, provide good support for the Complainant's requested assessment.

Finally, the Board finds that the September 2010, sale transaction involving the subject to be the most convincing evidence available.

Board's Decision:

The Board finds the Complainant's evidence to be the most convincing. The land assessment is reduced to \$525,000 per acre. For the River Rock Place parcel, the Complainant offered no

evidence to contradict the current assessment.
The revised assessments are as follows;

<u>File No.</u>	<u>Roll Number</u>	<u>Land Area (acres)</u>	<u>Revised Assessment</u>
63094.....	200945871.....	6.005.....	\$3,150,000
63096.....	200945889.....	0.981.....	\$515,000
63109.....	200945897.....	1.997.....	\$1,040,000
63112.....	200945905.....	1.997.....	\$1,040,000
63115.....	200945913.....	1.997.....	\$1,040,000
63118.....	200945921.....	0.998.....	\$523,500
63119.....	200945947.....	4.003.....	\$2,100,000
63120.....	200945954.....	4.003.....	\$2,100,000
63122.....	200945962.....	4.003.....	\$2,100,000
63124.....	200945970.....	1.999.....	\$1,040,000
63125.....	200945988.....	0.981.....	\$515,000
63127.....	200946002.....	8.204.....	\$4,300,000
63128.....	200946010.....	1.030.....	\$128,500
63130.....	201436078.....	6.511.....	\$3,400,000
63613.....	200945996.....	0.998.....	\$523,500

DATED AT THE CITY OF CALGARY THIS 22 DAY OF August 2011.



J. Zezulka
Presiding Officer

CC: Owner

List of Exhibits

C-1; Evidence submission of the Complainant
C-2; Rebuttal submission by the Complainant
R-1; City of Calgary Assessment Brief

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.*