

**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:

**Tom's Speedy Muffler Ltd.
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
J. Massey, MEMBER
P. Pask, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	090077801
LOCATION ADDRESS:	4002 Macleod Trail SE
HEARING NUMBER:	65905
ASSESSMENT:	\$1,190,000

The complaint was heard on August 13, 2012, in Boardroom 11 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

D. Sheridan

Appeared on behalf of the Respondent:

E. D'Altorio

Board's Decision in Respect of Procedural or Jurisdictional Matters

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

Property Description

The subject property is a 11,932 sq.ft. (square foot) parcel of land, improved with a 3,680 sq.ft. "B" quality, automotive service structure, constructed in 1968. The assessment is based on the market value of the underlying land, as though vacant.

Issues

The Complainant identified the following matter in section 4 of the complaint form:

3. an assessment amount

The Complainant set out the grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$501,144; however, at the hearing the Complainant's issues were limited to the following:

Issue: Is the subject property's assessment equitable in relation to the assessments of similar properties?

Complainant's Requested Assessment

At the hearing, the Complainant requested an assessment of \$500,000.

Board's Decision in Respect of the Issue

[1] The Complainant submitted that the assessment has increased by 53.25%, from \$776,500 (as amended) in 2011, without a corresponding increase in the marketplace, and the current assessment of the subject property is inequitable in relation to the assessments of similar properties.

[2] In support of the argument, the Complainant provided property and assessment details in respect of four properties with identical land use designations, and located on the east side of Macleod Trail, as outlined below:

Address	Property Type	Valuation Approach	Assessment	Size Sq.Ft.	Assessment per Sq.Ft.
Subject	Improved	Sales	\$ 1,190,000	11,932	\$ 99.73
3916 Macleod Trail SE	Vacant	Sales Comparison	\$ 1,080,000	25,602	\$ 42.18
4400 Macleod Trail SW	Vacant	Sales Comparison	\$ 5,680,000	81,487	\$ 69.70
5210 Macleod Trail SW	Improved	Sales	\$ 1,690,000	24,325	\$ 69.48
5540 Macleod Trail SW	Improved	Sales	\$ 235,000	2,939	\$ 79.96

[3] The Complainant argued that the subject property should be entitled to the lowest equivalent assessment; being the assessed \$42.18 per sq.ft. unit rate of the property located at 3916 Macleod Trail SE, resulting in an assessment of \$500,000 (truncated). The Complainant argued that although 3916 Macleod Trail SE shares the identical land use designation on only 75% of it's area, with a zoning of I-G (Industrial -General) on the remainder, it is the most comparable property to the subject, as it is also a corner lot located on the east side of the same intersection as the subject.

[4] The Respondent submitted that assessments of income producing properties are prepared on the basis of the income approach to value; however, where the income generated by an improvement, capitalized, does not establish a market value greater than the market value of the underlying land as though vacant, the vacant land value is selected to be the assessed value. In respect of the subject property, the Respondent submitted that the subject's income approach valuation establishes a value less than the applicable \$100 per sq.ft. base land rate. In support of the methodology, the Respondent provided CARB 0867/2010-P and CARB 2594/2011-P.

[5] The Respondent argued that there is equity in the resulting assessments as the methodology is applied consistently. To demonstrate that the subject's assessment is equitable in relation to the assessments of similar properties, the Respondent provided a summary of three similarly sized, improved parcels located along Macleod Trail, all valued at the identical \$100 per sq.ft. base land rate.

[6] The Respondent submitted that the base land assessment is consistently prepared by means of the following land valuation formula:

Area – Sq.Ft.	Rate / Sq.Ft.
• First 20,000	\$100.00
• 20,001 to 135,000	\$ 60.00
• Area over 135,000	\$ 28.00

[7] In support of the \$100 per sq.ft. base land rate, the Respondent provided two, third party transaction summaries in respect of a March 1, 2012 sale of a 36,380 sq.ft. vacant parcel located at 6550 Macleod Trail SW, that transferred at a unit rate of \$117.00 per sq.ft.

[8] In response to the Complainant's equity comparables, the Respondent submitted that the assessment of 3916 Macleod Trail SE was in error, and provided evidence that an amended assessment was prepared reflecting the vacant land valuation formula, and an assessment notice was mailed on March 1, 2012 in the amount of \$2,450,000, equating to a unit rate of \$95.70 per sq.ft., after influence adjustments.

[9] The Respondent submitted that the assessments of the Complainant's remaining equity comparables were prepared with the identical vacant land valuation formula; however, the Respondent argued that the properties are dissimilar to the subject in respect of the following attributes:

- 4400 Macleod Trail SW: Significantly larger than subject, affects effective unit rate

Size (Sq.Ft.)	Unit Rate	Indicated Value	Effective Unit Rate
20,000	\$ 100.00	\$ 2,000,000	
61,487	\$ 60.00	\$ 3,689,220	
-	\$ 28.00	\$ -	
81,487		\$ 5,689,220	\$ 69.82

- 5210 Macleod Trail SW: Slightly larger than subject; "shape" adjustment affects unit rate

Size (Sq.Ft.)	Unit Rate	Value	Effective Unit Rate
20,000	\$ 100.00	\$ 2,000,000	
4,325	\$ 60.00	\$ 259,500	
-	\$ 28.00	\$ -	
24,325		\$ 2,259,500	\$ 92.89
Shape Factor:	-25%	\$ (564,875)	
		\$ 1,694,625	\$ 69.67

- 5540 Macleod Trail SW: "Shape" adjustment affects unit rate

Size (Sq.Ft.)	Unit Rate	Value	Effective Unit Rate
2,939	\$ 100.00	\$ 293,900	
-	\$ 60.00	\$ -	
-	\$ 28.00	\$ -	
2,939		\$ 293,900	\$ 100.00
Shape Factor:	-20%	\$ (58,780)	
		\$ 235,120	\$ 80.00

[10] In rebuttal, the Complainant presented two land sales to refute the Respondents vacant land valuation formula.

Address	Property Type	Description	Sale Price	Size (Sq.Ft.)	Sale Price per Sq.Ft.
3840 Macleod Trail S.	Vacant	Service Station Site	\$ 675,000	20,805	\$ 32.44
7007 Macleod Trail SW	Improved	Automotive Repair	\$1,094,000	19,342	\$ 56.56

[11] In response, the Respondent provided RealNet sale transaction summaries related to the above properties, to suggest that the sale of 3840 Macleod Trail South was affected by site contamination from the former service station, and the sale of 7007 Macleod Trail SW was a transaction between partners, and therefore not an "arms-length" transaction.

Decision

[12] The Board finds that there was insufficient evidence presented to demonstrate that the assessment of the subject property is inequitable in relation to the assessments of similar properties.

[13] The Board finds the Complainant's equity comparables are dissimilar to the subject property as a result of their parcel sizes, and in 2 instances, the parcel shape. The Board is persuaded that the Respondent's vacant land valuation formula has been equitably applied, as the assessments in evidence before the Board appear to be equitable when consideration is given to physical characteristics of the parcels.

[14] The Board makes no finding in respect of the land rates applied, as the market evidence presented by both parties is inconclusive.

[15] The sales evidence presented by the Complainant was given little weight as the Respondent's evidence demonstrated that 7007 Macleod Trail SW may have been a non-arms length transaction, and 3840 Macleod Trail South was possibly affected by an unknown degree of site contamination. Moreover, the Complainant's issue before the Board is assessment equity, and there was no market evidence presented in the Complainant's initial submission disclosed in accordance with the regulation.


[16] The Respondent's sale of 6550 Macleod Trail SW, at a unit rate of \$117.00 per sq.ft., was also afforded little weight, as the sale occurred 8 months after the valuation date and there was no evidence provided to demonstrate that a time adjustment is not warranted. Further, the Board is persuaded that the property is located in a prime location, and there was no evidence to demonstrate that this land rate would be achievable elsewhere along Macleod Trail.

The assessment is **CONFIRMED** at: \$ 1,190,000.

DATED AT THE CITY OF CALGARY THIS

11th

DAY OF OCTOBER, 2012.



J. Krysa
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission (26 pages)
2. R1	Respondent's Submission (92 pages)
3. C2	Complainant's Rebuttal Submission (23 pages)
4. R2	Respondent's Surebuttal (3 pages)
5. R3	Respondent's Surebuttal (3 pages)

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	Retail	Stand Alone	Land Value	