

**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:**

***Midsun Holdings Ltd.***  
***(as represented by Brenda MacFarland Property Tax Consulting), COMPLAINANT***

**and**

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

**before:**

***M. Vercillo, PRESIDING OFFICER***  
***J. Lam, MEMBER***  
***D. Pollard, MEMBER***

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

**ROLL NUMBER: 200514008**

**LOCATION ADDRESS: 11888 MACLEOD TR SE**

**FILE NUMBER: 65901**

**ASSESSMENT: \$6,940,000**

This complaint was heard on 29<sup>th</sup> day of August, 2012 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:

- *N. Liard*
- *B. MacFarland*

Appeared on behalf of the Respondent:

- *R.T. Luchak*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**Property Description:**

[2] The subject is a single-tenanted retail car dealership known as "Kramer Mazda". According to the information provided, the property contains one building that combines both automobile showroom and service, that was constructed in 2004 and is 22,714 square feet (SF) in size. The building is situated on an assessable land area of 125,942 SF and has a land use designation of Commercial – Corridor 3 (C-COR3), with a floor-to-area ratio (FAR) of 0.32 and a maximum building height of 15 metres.

[3] The subject is assessed using the Cost Approach to Value. The building is considered a "B" class quality and according to the Marshall and Swift calculations, assesses the improvements' value at \$2,773,711 or \$122.11 per SF. The residual value is for land which is assessed at \$4,166,376 or \$33.08 per SF, with no consideration given for positive or negative influence adjustments.

**Issues:**

[4] The Complainant addressed the following issue at this hearing:

- 1) The market value of the land is overstated because the assessment does not consider development, access and shape restrictions.

**Complainant's Requested Value:**

[5] \$5,600,000 on the complaint form. \$5,480,000 within the disclosure document and \$4,490,000 in the rebuttal document of this hearing.

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

**ISSUE 1:      The market value of the land is overstated because the assessment does not consider development, access and shape restrictions.**

**The Complainant** provided a 50 page document entitled "Assessment Appeal Disclosure Report" that was entered as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence or argument with respect to this issue:

[6]      That the unique development restriction of a 0.32 FAR could affect the market value of the subject, because the FAR restriction limits its development potential. In this case, the maximum developable floor space for the subject would be 40,301.44 SF. This argument was supported by various maps in the SE quadrant of Calgary along Macleod Trail. Those maps revealed that typical FAR's for C-COR3 properties varied between 1.0 and 3.0. The subject's FAR of 0.32 is atypical and this development restriction would be reflected in the marketplace in comparison to other C-COR3 properties. As a result, the Complainant requested a 25% Land Use Restriction negative influence adjustment (as per a City of Calgary Assessment influence adjustment table). A definition for Land Use Restriction was provided that indicated the adjustment is used on the assessment of properties where development potential is restricted by caveat, covenant or DC Bylaw in comparison to other similar properties that are not so affected.

[7]      A nearby equity comparable property at 12800 Macleod Trail SE known as "Advantage Ford". This comparable had a land use designation of Direct Control District (DC) with a FAR of 0.40. The building was built in 1995 and had a "B" class quality rating. The site size was 126,347 SF, with an improvement size of 28,061 SF and a maximum developable floor space of 50,538.8 SF. The 2012 assessment of this property is \$4,700,000. It was argued that based on the adjacent vacant land's (at 12725 Lake Fraser Drive SE) assessment of \$24.12 per SF, this property's assessment would result in an assessment of \$3,048,249 for the land and \$1,651,751 for the improvement.

[8]      An adjacent equity comparable property at 11700 Lake Fraser Drive SE known as "Calgary Honda and Hyundai Gallery". This comparable had a land use designation of C-COR3 with a FAR of 0.26. The 2 buildings were built in 2005 and 2007 and both had a "B" class quality rating. The site size was 275,565 SF, with a total improvement size of 65,112 SF and a maximum developable floor space of 71,646.9 SF. The 2012 assessment of this property is \$13,270,000. It was argued that based on an assumed improvement assessment of \$125.00 per SF, this property's assessment would result in an assessment of \$8,166,856 for the improvement and \$5,103,144 for the land (\$18.52 per SF).

[9]      An equity comparable property at 14708 5 ST SW known as "Fish Creek Nissan". This comparable had a land use designation of C-COR3 with a FAR of 1.00. The 2 buildings were built in 2002 and 2011, with the older automotive services building having a "C" class quality rating and the newer office building having a "A-" class quality rating. The site size was 91,173 SF, with a total improvement size of 19,344 SF for the automotive services building and a maximum developable floor space of 91,173 SF. The 2012 assessment of this property is \$4,570,000. It was argued that based on an assumed improvement assessment of \$120.00 per SF, this property's assessment would result in an assessment of \$2,321,280 for the improvement and \$2,248,720 for the land (\$24.66 per SF).

[10]     A nearby equity comparable property at 370 Canyon Meadows SE known as "Canyon

Creek Toyota". This comparable had a land use designation of C-COR3 with a FAR of 2.00. The building was built in 1991 and had a "B" class quality rating. The site size was 140,258 SF, with a total improvement size of 25,182 SF and a maximum developable floor space of 280,516 SF. The 2012 assessment of this property is \$6,360,000. It was argued that based on an assumed improvement assessment of \$90.00 per SF, this property's assessment would result in an assessment of \$2,266,380 for the improvement and \$4,093,620 for the land (\$29.19 per SF).

[11] The Complainant concluded from the analysis of the above equity comparables that the subject's assessed land rate of \$33.08 per SF is significantly higher than the comparables. Moreover, when consideration is given to the ratio between the assessed land rate and the maximum floor area the following was calculated:

- 1) Subject: \$103.38
- 2) 12800 Macleod Trail SE: \$ 60.32
- 3) 11700 Lake Fraser Drive SE: \$ 71.23
- 4) 14708 5 ST SW: \$ 24.66
- 5) 370 Canyon Meadows SE \$ 14.59

[12] A sale comparable was provided at 360 Shawville BV SE that sold on May 9, 2011. The property had 32,831 SF of land and sold for \$22.50 per SF. Although the property had a land use designation of C-R3, the FAR was 0.29 with a maximum developable floor space of 9,520.99 SF. The resulting ratio between the assessed land rate and the maximum floor area would be \$77.58.

[13] A sale comparable was provided at 3840 Macleod TR SE that sold on November 29, 2011. The property had 20,805 SF of land and sold for \$32.44 per SF. The property had a land use designation of C-COR3 with a FAR was 3.00 and a maximum developable floor space of 62,415 SF. The resulting ratio between the assessed land rate and the maximum floor area would be \$10.81.

[14] A copy of a restrictive covenant, registered on title as Document #001022165, which states: "Unless otherwise approved in writing by the Director of the Transportation Department of the City of Calgary, direct vehicular access from/to Macleod Trail South to/from the said lands is prohibited". The Complainant explained that the subject's poor visibility from a northern approach and access 1 kilometre from a southern approach warranted a 10% Limited Access negative influence adjustment (as per a City of Calgary Assessment influence adjustment table). A definition for Limited Access was provided that indicated the adjustment is used on the assessment of properties where access is limited in such a way as to inhibit development.

[15] That failing the 25% Land Use Restriction negative influence adjustment, the Complainant suggested that the atypical half-circle shape of the subject would limit the development potential of the subject if the FAR was typical. As a result, the Complainant requested a 25% Shape negative influence adjustment (as per a City of Calgary Assessment influence adjustment table). A definition for Shape was provided that indicated the adjustment is used on the assessment of properties where development potential is restricted as a result of the shape of the lot.

[16] The Complainant concluded this analysis with the request that the 25% Land Use Restriction and the 10 % Limited Access negative influence adjustments be applied to the land assessment that resulted in a requested assessment of \$5,480,000.

**The Respondent** provided a 41 page document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence or argument with respect to this issue:

[17] A table of 2012 Commercial Land Values. The table outlines that properties with land use designations of C-COR are assessed as follows:

- 1) The first 20,000 SF @ \$60.00 per SF,
- 2) The next 135,000 SF @ \$28.00 per SF,
- 3) And the remainder @ \$8.00 per SF.

In support of the above table, the Respondent provided 4 property sales with C-COR land use designations that sold between March 6, 2010 and May 31, 2011. Two sales were in the NE, one was in the NW and one in the SE quadrants of the city. The parcel sizes varied between 6,159 SF and 19,602 SF. The time adjusted sales price per SF of land varied from \$59.10 to \$108.27.

[18] A table of three equity comparables to the subject outlining the details of their respective assessments. All were C-COR3 properties with FAR's varying from 0.26 to 2.0. Of note is the assessment of the equity comparable at 11700 Lake Fraser DR SE, which is one of the equity comparables used by the Complainant.

[19] That the shape of the subject does not warrant a reduced assessment, because it does not severely restrict the owner's ability to develop. The Respondent stated that the Shape negative influence adjustment on assessment is typically used on smaller properties (less than 1 acre). The only exception is where larger properties are so narrow as to restrict development.

[20] That the FAR restriction on the subject is not significant because with a maximum developable floor space of 40,301 SF and he could not think of any properties that would require a larger building.

**The Complainant** provided a 27 page rebuttal document entitled "Assessment Appeal Rebuttal Report" that was entered as "Exhibit C2". The Complainant along with Exhibit C2 provided the following evidence or argument with respect to this issue:

[21] Upon filing a request under *Section 300* of the *Municipal Government Act*, the Complainant was made aware that one of his equity comparables at 12800 Macleod Trail SE, the Advantage Ford car dealership, actually had a 2012 land assessment of \$1,715,176. This was substantially different than what was calculated for land assessment (\$3,048,249) in Exhibit C1. Using the same land assessment formula as was used on the Advantage Ford car dealership, the Complainant revised his land assessment request for the subject, with a resulting overall assessment request of \$4,490,000.

**The CARB** finds the following with respect to this issue:

[22] That the subject's FAR of 0.32 is atypical of comparable properties with C-COR3 land use designations. A typical FAR for C-COR3 tended to be between 1.0 and 3.0 as supported by the many SE quadrant maps as provided by the Complainant.

[23] That the Complainant's equity comparables are superior to that of the Respondent's in a number of factors. Notably, proximity to the subject, land size and the fact that all were car

dealerships. Further, the Respondent provided no detailed analysis of his equity comparables to support the equity of the subject's assessment.

[24] That the Complainant's sales comparables are superior to that of the Respondent's when considering proximity to the subject and land size. The Respondent provided sales comparables that were all much smaller (under 20,000 SF) than the subject and they did not all support the assessment rate of \$60.00 per SF, which is what the Respondent supplied on his assessment table (see paragraph [17]).

[25] That the Complainant did not provide any examples of properties that were given a Limited Access negative influence adjustment on their land assessment.

[26] That the Complainant did not provide any examples of properties that were given a Shape negative influence adjustment on their land assessment.

[27] That the Advantage Ford car dealership has a different land use designation than the subject.

**Board's Decision:**

[28] The complaint is accepted in part and the assessment is revised at \$5,890,000.

**The CARB** provides the following reasons for the decision:

[29] Like land use designation, FAR is a reasonable consideration of what a willing buyer would be willing to pay for land with similar land use designation, to other land that is not so atypically restricted. It is reasonable to assume that a potential purchaser of property would be willing to pay more for land where the developable maximum floor area is greater, all other things being equal. In this case a 25% negative influence adjustment would result in a land assessment of \$3,124,782 or \$24.81 per SF. This land assessment rate would be well within the Complainant's equity comparables and sales comparables, both which were deemed by the CARB to be superior to that of the Respondent's.

[30] The Complainant failed to prove that the subject suffers from any access or shape restrictions that would limit significantly its development potential.

[31] The CARB does not accept the calculation presented in the rebuttal of the Complainant's evidence because it is based solely on one comparable property with a different land use designation. Moreover, if the CARB were to accept the assessment request as provided in the Complainant's rebuttal, the subject's land assessment would no longer be comparable to remainder of the Complainant's comparables.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF SEPTEMBER 2012.



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. R1	Respondent Disclosure
3. C2	Complainant's Rebuttal

*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 MGB Office Only)**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
CARB	Retail	Stand Alone	Cost Approach	Land Value