

**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:

***Harmin Holdings Ltd. & 676733 Alberta Ltd. (as represented by Altus Group),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, Mr. J. Fleming
Board Member Mr. D. Morice
Board Member Mr. J. Joseph***

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

ROLL NUMBER: 098015902

LOCATION ADDRESS: 6118 30th St. SE

HEARING NUMBER: 68239

ASSESSMENT: \$1,550,000

This complaint was heard on 9th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4th 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Mr. D. Mewha*

Appeared on behalf of the Respondent:

- *Mr. R. Fegan*

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

There were no procedural or preliminary matters.

There were no objections to the composition of the panel.

Property Description:

The property is a piece of undeveloped land used for parking. The site is 29,995 square feet sq. ft. and is zoned CCOR3 f1.0h16. The property is valued on the Direct Sales Comparison method (DSC)

Issues:

Should the property value be based on its development potential as denoted by its Floor Area Ratio (FAR)?

Should the property receive an adjustment for poor access?

Complainant's Requested Value:

\$632,500

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

The Complaint is allowed in part and the assessment is reduced to **\$1,160,000**

Board's Decision:

The Complainant argued that the best "fit" for the evaluation of sales prices for CCOR land was based on the buildable potential of the site based primarily on the FAR. The Complainant noted that the CCOR zoning was relatively new and was designed to encourage auto oriented uses along higher volume roads (Ex. C1, pg 15). They noted that the actual zoning specified the allowable FAR and the height limit for any development. Thus the current zoning for the subject was CCOR3 f1.0h16 which denoted a FAR of 1.0 times and a maximum height of 16 metres.

They argued using Appraisal theory (Ex. C1, pg 18) that there was a linear relationship between sales price and FAR such that a property with an FAR of 2.0 should sell for twice as much as a property with an FAR of 1.0.

The Complainant provided five sales (Ex. C1 pg. 12) with sale prices per sq. ft. ranging from \$48.30 to \$169.20 and FAR adjusted sales prices per sq. ft. of \$22.50 to \$31.70. They argued that the FAR adjusted prices provided a "tighter" range of values. Based on these sales, the Complainant was requesting a base rate of 28.00 per sq. ft. which was the approximate median of the FAR adjusted sale prices.

The Complainant also argued that the property should receive a limited access adjustment of 25%. The way the CCOR zoning is structured, some properties not directly on the main road also receive the CCOR land use designation and valuation, and the City has calculated a

"limited access adjustment" of -25% for such properties to recognize a value adjustment based on limited access and/or exposure. The Complainant provided two examples of similar properties which had obtained the adjustment albeit for prior years.

With all of these items in support, the Complainant requested a reduction in the assessment to \$632,500.

The Respondent provided 11 property sales in support of the assessment (Ex. R1, pg. 8). These sales produced a median selling price of \$59.10 per sq. ft. versus the subject assessment of \$51.85 per sq. ft.

In asking for confirmation, the Respondent argued that there was no evidence to show the impact of FAR on value, as all of the CCOR properties required parking and so they were all developed with an FAR of less than 1.0. As such, the FAR had little impact on the value of the land.

In Rebuttal, the Complainant reviewed the Respondent's sales and formatted these sales into the format used by the Complainant (Ex. C2 pg. 3). They also isolated the four sales from the Respondent's table that had similar zoning to the subject and calculated per sq. ft. selling prices (\$49.00 - \$100.00) and FAR adjusted sale prices per sq. ft. (\$22.00 to \$31.00).

Furthermore, they noted that properties with land uses C-C, C-N, and those properties located on 16th Ave N. were all valued with different inputs from each other and also the subject property.

Finally, the Complainant noted that the property had been appraised in November of 2009 for \$585,000 and that this had formed the basis of the 2011 assessment. They provided a copy of the transmittal page of the Appraisal and a copy of the 2011 CARB decision (2115/2011-P Ex. C1 pg 53) which accepted the appraisal as the basis for the 2011 assessment.

The CARB considered all of the evidence and argument. With respect to the FAR adjusted sale price, the CARB understands the theory and has seen it at work in downtown commercial development land sales from time to time. The issue in this complaint was there were no examples of developments put forward where there was a significant development on a CCOR site which took advantage of the available FAR. The Respondent's argument that most if not all CCOR developments are using a FAR of less than 1.0 was persuasive. In the face of the Respondent's argument and without any examples from the Complainant, the CARB is left to conclude that the sale prices are not influenced by the FAR. The CARB also noted that in its opinion, the notion of an auto related use with an FAR in excess of 1.0 is difficult to comprehend. Accordingly, the CARB finds the base rate to be \$51.85 per sq. ft.

As part of this analysis, the CARB closely considered the information in the Complainant's Rebuttal. As a result of the differences in land use, and the differences in the inputs, the CARB put little weight on the non-CCOR properties leaving just the four CCOR properties (C2, pg. 2). The CARB noted though, that two of those properties were located on 16th Ave. and the CARB was unable to determine how those valuations were created. In the final analysis, the CARB put greater weight on the argument in the previous paragraph and part of the reason for that was the lack of confidence in the data from two of the 16th Ave. CCOR properties.

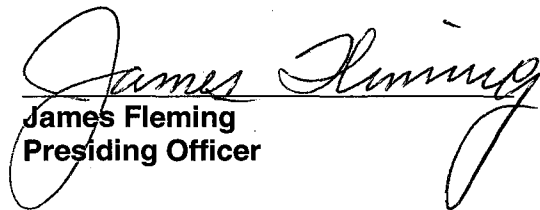
The CARB accepted the arguments of the Complainant that they were entitled to the -25%

adjustment for limited access. The basis for this decision was that the property is not located on the major artery, and it is consistent with the type of access limitation shown by the Complainant for the two properties which received the adjustment. In addition, the CARB notes from CARB 2115/2011-P (Ex. C1, pg. 54) that there are access easements across the lands which the CARB finds supports the limited access claim.

Finally, with respect to the Appraisal value used in last year's assessment, the CARB notes that the appraisal was prepared based on an industrial use, and while the CARB has respect for previous CARB's decisions, the CARB concludes that the land use classification is reasonable given the commercial use of the adjoining property and further, this CARB did not have the appraisal as evidence, nor did it receive any argument to support an industrial classification.

Accordingly, the CARB concludes that the base rate for the property is the Land Value from the Assessment Explanation Supplement (Ex. R2, pg 6) \$1,551,795 less a 25% adjustment for limited access for a final value of \$1,163,846 which is truncated to \$1,160,000 as noted above.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF October 2012.


James Fleming
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	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 Official Use Only:

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Vacant Land	Cost/Sales Comparison	Land Value