

**CALGARY
COMPOSITE 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:

***526304 Alberta Ltd., as represented by Colliers International Realty Advisors Inc.,
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
E. Bruton, MEMBER
D. Morice, MEMBER***

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:	067231100
LOCATION ADDRESS:	725 9 AV SW
HEARING NUMBER:	65998
ASSESSMENT:	\$55,160,000

This complaint was heard on the 30th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *T. Howell, Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *D. Grandbois, City of Calgary*

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

[1] There were no procedural or jurisdictional matters raised by the Parties.

Property Description:

[2] The property under complaint is a vacant, single parcel containing 258,105 square feet (sq.ft.) located at 725 9 Av. SW, in the DT2E district and lying between 5th St. on the east and 8th St. on the west and between 9th Av. on the north and the Canadian Pacific Rail (CPR) tracks on the south. The land use district is Downtown Business District and the property is used as a commercial parking lot. The parcel is assessed on its land value.

Issues:

[3] Has the Respondent correctly and equitably applied the various influence adjustments that affect this parcel to arrive at its assessed market value?

[4] There is no complaint as to the base DT2E rate or to the value ascribed to the various influences.

Complainant's Requested Value:

[5] On the Complaint Form, the Complainant requested an assessment of \$37,280,000. This request was amended in his C1 disclosure document to \$42,270,000. The request was further amended in the Rebuttal document, C2, to \$40,160,000.

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

[6] The assessment was derived by using the land rate of \$225 per sq.ft. for the DT2E district and then adjusting that \$225 rate by the net of a negative adjustment of 15 per cent because the parcel abuts the train tracks and a positive adjustment of 10 per cent because the parcel abuts 5th St. on the east and therefore is affected by the 5th St. transition zone for vacant land. The net, negative adjustment of 5 per cent resulted in a land rate of \$213.75 which was applied to the total square footage of the parcel.

[7] The Complainant advised, and the Respondent concurred, that in 2011, the City created

an artificial division within the parcel so that the easterly one-third of its area attracted the 5th St. transition zone increase of 10 per cent while the westerly two-thirds of the area did not. For 2012, the artificial boundary was eliminated and the 10 per cent transition zone influence was applied to the entire parcel. The Complainant contended that this was inequitable.

[7] In addition, the Complainant requested that a further 15 per cent reduction be applied to the assessment pursuant to the City's Limited/Restricted Access policy in that there was no access to the parcel from either 8th St. or 5th St. and that, because 9th Av is one way, if a person were to miss the entrance to the parking lot, it would be necessary to drive around several blocks to return to an entry point. The City referenced its written policy on limited access as contained in R1 and noted that "The expectation is that the parcel is not accessible by road without having to cross an adjacent parcel." He noted that the parcel is accessible along its full length adjacent to 9th Av. The pictorial evidence he provided illustrated the use made of the parking lot.

[8] In his Rebuttal argument the Complainant further suggested that an additional 5 per cent decrease be applied to the parcel based on the net of a 5 per cent increase for corner influences and a 10 per cent negative adjustment for parcels that abut the Beltline. The Complainant relied on a partial transcript from another hearing held on July 30, 2012 with respect to a property unrelated to the subject. In that transcript, it appeared as though the City's Assessor was indicating that there is another transitional zone between Downtown and the Beltline.

[9] The Complainant wanted to rely on those statements to benefit from an additional 10 per cent decrease since the subject parcel is on the boundary between Downtown and the Beltline. The upward adjustment he requested of 5 per cent for corner influences related, he said, to page 38 of the City's R1 disclosure which showed a hypothetical calculation based on the previous artificial split with a modified 5th St. adjustment, the application of two corner influences and the rail track influence but no allowance for limited access.

[10] The Respondent at this hearing was not the same assessor who appeared in the hearing covered by the transcript. He was unable to account for the comments of his colleague but stated that there is no transitional adjustment between Downtown and Beltline, only the adjustment of the rail tracks that divide the two districts. Further, the Respondent noted that no 5 per cent increase for corner influences had been applied to the base rate for the assessment of the subject parcel and, if there had been, it would only be applied once to the legally described parcel. The Respondent referenced p.19 in R1 that lists the 2012 Downtown vacant land zones and the various adjustments that apply to those lands. There is no Downtown/Beltline transitional influence listed.

[11] The Respondent took the position that the 5th St. transition zone was consistently applied to the full, legally described parcels that abut 5th St. and that the change in application of the 10 per cent increase was intended to treat all owners in the same fashion. He agreed that the subject parcel is an anomaly but did not have a solution to advance. He noted that the Complainant had not produced any evidence of inequity with respect to other parcels to show that they were not fully assessed for that influence.

[12] The Respondent also argued that, if the Complainant contended that the assessment was in error, then he was required to produce market data to demonstrate that the assessment fell outside of a range of values that would allow for a determination on equity. The

Complainant, he said, did not do this and therefore the assessment should be confirmed.

Decision and Reasons:

[13] In the first instance, the Board does not agree that the Complainant was required to show market data as suggested in para 12, above. There was no challenge to the land rates or to the value the City ascribes to the various influences. The only issues were which influences should apply and over what portion of the parcel. These constitute corrections within the methodology not a challenge to the land rates that underlie the assessment.

[14] The City did not apply a corner influence to the 2012 assessment calculation and neither will the Board.

[15] The transcript provided by the Complainant was incomplete and the assessor who made the comments was not in attendance at this hearing to answer questions or provide clarification. The Board is satisfied from Respondent evidence at this hearing that there is no Beltline/Downtown transition zone influence or, in the alternative, no clear evidence of one, and will not apply a further reduction to the base land rate to account for it.

[16] Likewise the Board is satisfied the City's Limited/Restricted Access Influence was intended to address parcels with no legal access and does not apply to the subject parcel.

[17] The Board concurs that the Respondent has correctly applied the 5th St. transitional zone influence to the subject parcel in that the increase is applied, uniformly, to the entire legal entities adjacent to 5th St. However, as both Parties agree, this parcel is atypical since its one legal identity encompasses three City blocks. It appears from the mapping provided by the Respondent that, at the most, the relevant influence increase would apply to only one City Block – between 5th St. and 6th St. The City explicitly recognized this in 2011 by creating an artificial boundary at approximately 6th St.

[18] The Board finds that an inequity is created in the application of the influence to this atypical parcel. While the Board believes that it would be fairly straightforward for the City to articulate a policy to deal with the inequity, it is not the Board's role to do that for them. However, the Board is comfortable in addressing the inequity by reverting to the formula that was applied by the City in 2011 by creating a one-third, two-third split in the parcel for the purpose of calculating the 5th St. influence. In revising the assessment to achieve this finding, the Board noted an error in the areas ascribed to the parcels. The assessment is calculated as follows:

1. Total area of 258,105 sq.ft. divided by 1/3 equals 86,035 sq.ft (parcel A); the remainder of the parcel is 172,070 sq.ft. (parcel B).
2. Land rate for parcel A is \$225 per sq.ft. less 15 per cent for rail tracks plus 10 per cent for 5th St. influence equals \$213.75 per sq.ft.
3. Land rate for parcel B is \$225 per sq.ft. less 15 per cent for rail tracks equals \$191.25 per sq.ft.
4. Assessment for parcel A is \$213.75 x 86,035 equals \$18,389,981

5. Assessment for parcel B is $\$191.25 \times 172,070$ equals $\$32,908,387$
6. The total revised assessment is calculated as $\$51,298,368$ or $\$51,290,000$ truncated.

Board's Decision:

The 2012 Assessment is revised to $\$51,290,000$.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF September 2012.


S. Barry
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure
3. C2	Complainant's 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 MGB Administrative Use Only

Decision No.: 1646/2012-P		Roll No.: 067231100		
Subject	Property Type	Ppty Sub-type	Issue	Sub-Issue
CARB	Other Property	Vacant Land	Base Rate Adjustments	