

**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:

1504953 Alberta Ltd. (as represented by Altus group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. B. Hudson, PRESIDING OFFICER

B. Jerchel, MEMBER

D. Cochrane, MEMBER

This is a complaint to the Calgary Assessment Review Board 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: 200779379

LOCATION ADDRESS: 107 12 AV SW

FILE NUMBER: 67076

ASSESSMENT: \$6,370,000

This complaint was heard on the 26th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- M. Cameron
- D. Hamilton

Appeared on behalf of the Respondent:

- D.C. Grandbois

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 subject property is 0.9 acre parcel of land located in the Beltline (BL2) community at 107 12 AV SW in Calgary. The land parcel currently provides 109 parking stalls serving the Hotel Arts complex and accommodating monthly pay parking from 9am to 5pm weekdays and pay as you go parking on weekends, and after 5pm weekdays. The subject property has a Centre City Mixed Use (CCX) land use designation and is currently assessed as non-residential, vacant land. Based on the direct sales comparison approach at a base rate of \$155 per square foot(psf.) with a +5% corner lot influence factor, the current assessment amount is \$6,370,000.

Issues:

[3] The fairness and equity of the assessment amount and the assessment class were identified as issues on the complaint form.

[4] The Complainant suggested that the issues could be resolved by either of the following actions:

- Change the assessment class to residential from non-residential, with no change to the assessment amount, or
- Retain the non-residential assessment class, and reduce the assessed base land rate to \$120 psf.

Complainant's Requested Value: \$6,370,000 if assessment class is changed to residential; or \$4,936,932 if the non-residential assessment class is retained, and the base land rate is reduced to \$120psf.

Board's Finding in Respect of Each Matter or Issue:**Change Assessment Class from Non- Residential to Residential****The Board finds insufficient evidence to change the assessment class to residential**

[5] The Complainant argued that by virtue of City of Calgary Bylaw No. 90Z2006, and Land Use Amendment LOC2006-0054 (page 33-40 of Exhibit R1), the subject property assessment class should be residential. The Bylaw amendment was passed in January 2007 to make way for development of a multi-storey residential tower with commercial office and retail elements at street level on the subject property.

[6] The Complainant also claimed that the City of Calgary had issued a Development Permit for a 218 unit apartment building with main floor retail uses on the subject property. The proposed development was marketed as "the Residences at Hotel Arts", and a sample of the marketing information (page 23- 32 of Exhibit C1), was submitted in support of the claim that the intended use of the property is residential.

[7] The Act Section 297(4), (b), and (c) guide the assessor in the assignment of assessment classes as follows:

- (b) "non-residential", in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation;
- (c) "residential", in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.

[8] The Respondent argued that there is no evidence to indicate that a "pending, in progress or approved development permit", exists to build a 218 unit apartment building on the subject site. In the absence of such evidence the property is properly assessed as non-residential based on its current use as a commercial parking lot.

Reduce the Base Land Rate to \$120psf. from the Assessed Rate of \$155psf.**The Board finds there is not sufficient evidence to conclude that the assessed land rate should be reduced.**

[9] The Complainant presented a list of land sales in the Beltline (page 100 of Exhibit C1), which produced a median value of \$120.36psf.

[10] The Respondent also presented a list of Beltline sales (page 22 of Exhibit R1), which produced a median value of \$153psf.

[11] In rebuttal the Complainant pointed out that the sale properties used by the Respondent were not similar to the subject in that most were improved with functioning retail businesses, or were located on commercial corridors.

[12] The Respondent countered by pointing that not all of the Complainant sale properties were similar to the subject, and that the property most similar and located in close proximity at 218 10 AV SE, sold for \$170.01psf

Board's Decision: The assessment is confirmed at \$6,370,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF October 2012.



T. B. Hudson
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 MGB Administrative Use Only

<i>Decision No. 1739/2012-P</i>			<i>Roll No 200779379</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Vacant Land	Assessment Class/ Amount	Market Value