

**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:

Western Securities Limited (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

F.W. Wesseling, PRESIDING OFFICER

D. Steele, MEMBER

H.Ang, 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: 067070409

LOCATION ADDRESS: 901 7 Ave SW

FILE NUMBER: 67990

ASSESSMENT: \$1,310,000

This complaint was heard on 6th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *M. Cameron*
- *D. Chabot*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

[1] No specific jurisdictional or procedural matters were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint.

Property Description:

[2] Subject property is located in downtown Calgary. The parcel is vacant and is developed fully as a parking lot to serve the adjacent commercial property which has retail restaurant units. The property consists of 6512 square feet. The City of Calgary Land Use Bylaw designates the subject site with a "Downtown Business District" classification.

Issues:

The Complainant raised the following matter in Section 4 of the Assessment Complaint form:
Assessment amount

Presentation of the Complainant and Respondent were limited to:

- Assessment market value is overstated in relation to comparable properties.

Complainant's Requested Value: \$1600 (Nominal Value)

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

[3] Complainant's Position: It is the Complainant's contention that the subject site serves as a parking lot to the adjacent commercial property. Both properties are owned by the same owner and are linked by means of restricted covenants, held by the tenants, on the title. The site, up to and including 2011, was assessed at a nominal rate when the adjacent commercial property was assessed utilizing the income approach.

[4] The Complainant provided the Board for consideration a listing of criteria for which sites

could be linked. Sites could be linked by title, ownership, lease, land use, occupancy, land use classification (Land Use Bylaw), neighbouring consent, title encumbrances, purchase, mortgage financing and/or market norms and expectations. A summary of 12 properties with linkage situations were provided and compared to the subject property.

[5] Respondent's Position: The Respondent submitted that for the assessment in previous years the value of the parking lot was captured in the value determined for the adjacent developed property using the income approach. Once it was determined that the income approach no longer determined the full market value of the property due to increasing land values the new assessment was determined for the adjacent commercial property using land value only. This approach no longer captured the value for the adjacent parking lot which was assessed as well on land value basis (\$225 per square foot). This is outlined very succinctly in CARB # 2243/2010-P and quoted below:

"The standard for vacant land is market value. Board finds that applying the nominal parking rate creates an inequity, and should only be applied to a vacant parcel when its application is clearly justified. In order to maintain equity in a situation where an assessment is far below market value, the Board finds three conditions must exist:

- 1. The improved parcel to which the vacant parcel is linked must be deficient in parking, and the parking provided on the vacant land must be necessary to satisfy the deficiency.*
- 2. A contractual arrangement must exist whereby the property cannot be readily sold for redevelopment separate from the improved parcel, and*
- 3. The value of the vacant parcel must be captured in the value of the improved parcel to which it is linked, i.e. the total value of vacant parcel and linked improved parcel must reflect market value."*

The value of the parking lot for the 2012 assessment is no longer captured in the developed adjacent property. It was further noted that no assessment complaint was lodged against the adjacent property.

Board's Decision:

[6] Upon reviewing the verbal and written evidence provided by the parties, the Board found that the Complainant failed to demonstrate that the assessment was in excess of market value.

[7] The Board confirms the assessment at \$1,310,000.

Reasons: -The Board sought guidance in the CARB# 2243-2010-P decision and found that the value of the subject property had not been captured in the adjacent parcel.

- The Board considered the equity comparable evidence provided by the Complainant and found it to be lacking and in the opinion of the Board not comparable to the subject property's assessment.

- The Board finds the assessment for the subject property are correctly assessed at market value pursuant to sections 293(1), 1(1) and 2 of the *Municipal Government Act* as well as Section 4(1) of the *Matter Relating to Assessment and Taxation Regulation AR220/300*.

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


F.W. Wesseling
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.</i>		<i>Roll No.</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Parking Lot	Linked to adjacent property	Nominal value request	Equity