

**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:

**Airways Equities Inc. c/o Tonko Realty Advisors Ltd.  
(as represented by Altus Group Ltd.), COMPLAINANT**

and

**The City Of Calgary, RESPONDENT**

before:

**J. Krysa, PRESIDING OFFICER  
D. Cochrane, MEMBER  
K. Farn, MEMBER**

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

<b>ROLL NUMBER:</b>	<b>201604709</b>
<b>LOCATION ADDRESS:</b>	<b>1617 32 Avenue NE</b>
<b>HEARING NUMBER:</b>	<b>68735</b>
<b>ASSESSMENT:</b>	<b>\$5,890,000</b>

The complaint was heard on September 6, 2012, in Boardroom 1 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. Van Staden

Appeared on behalf of the Respondent:

- G. Bell

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

**Property Description:**

The subject property is an 8.137 acre parcel of I-G (Industrial – General) land. As at December 31, 2011, the parcel was improved with an 1,980 sq.ft. wood frame structure with a finished lower level, and a 528 sq.ft. residential type garage structure. The improvements were constructed in 1993 and were utilized as a Rugby clubhouse and storage building in association with Calgary Recreation.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment amount
4. an assessment class
6. the type of property
7. the type of improvement

At the commencement of the hearing, the Complainant withdrew matter # 4, and led evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out twenty grounds for the complaint in section 5 of the complaint form with a requested assessment of \$5,400,000; however, at the hearing, only the following issue was before the Board:

- Do the improvements on the site, as at December 31, 2011, contribute to the market value of the property?

**Complainant's Requested Value:**

At the hearing, the Complainant requested an assessment of \$5,480,000.

**Complainant's Position**

[1] The Complainant submitted that the subject property was purchased from the City of Calgary on December 13, 2011, for the development of a 150,000 sq.ft. multi-tenanted, retail and industrial flex warehouse complex. The Complainant argued that as of December 31, 2011, the highest and best use of the site was vacant land, as the existing improvements on the site were slated for demolition and therefore had no value to the new property owner.

[2] The Complainant argued that an extensive highest and best use analysis is unnecessary, as the current owner would have completed such an analysis to support the purchase and development of the site; however, the Complainant presented a highest and best use overview in respect of the subject property including the four tests of highest and best use:

- a. What is physically possible
- b. What is legally permissible
- c. What is financially feasible
- d. What is maximally productive

[3] The Complainant argued that as the improvements had no value, the assessment should reflect only the value of the land. In support of the requested assessment of \$5,480,000, the Complainant provided the municipality's land valuation table to demonstrate that the assessor applies a base land rate of \$800,000 per acre to the first three acres, and a rate of \$600,000 per acre to the land areas in excess of 3 acres, resulting in an estimate of market value of the subject lands of \$5,483,952.

[4] The Complainant further argued that in *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB 512, Honourable Madam Justice L.D. Acton determined that the sale price of a property is the best indicator of its value, and accordingly, the maximum market value of the subject property should be the subject's \$5,701,500 sale price. The Complainant further argued that notwithstanding the sale price of the subject, the subject property is entitled to be assessed at the identical land rates of other vacant land parcels in the northeast.

[5] In cross examination the Complainant conceded that there was no evidence that the current owner completed a highest and best use study.

**Respondent's Position**

[6] The Respondent submitted that the assessment was prepared by means of the cost approach to value, with the \$415,025 depreciated replacement cost of the improvements, added to the \$5,483,952 market value of the land, as though vacant.

[7] The Respondent argued that the improvement existed on the site as at December 31, 2011, and therefore should be assessed. Further, the Respondent argued that the \$5,701,500 sale price of the subject property is within 5% of the assessed value, and more than supports the \$5,890,000 assessment of the subject property.

[8] In support of the assessment, the Respondent provided two third party sale transaction summaries, detailing the particulars of the subject's sale.

[9] In cross examination, the Respondent conceded that he had not inspected the subject property, nor applied a highest and best use test in the preparation of the assessment.

**Decision:**

[10] The Board finds that the improvements on the site, as at December 31, 2011, contribute to the market value of the property.

[11] The Board notes that the only market evidence before the Board was the sale of the subject land and (existing) improvement at \$5,701,500. In the absence of any market evidence to demonstrate a change in land values between the July 1, 2011 valuation date and the December 13, 2011 sale date, the only conclusion the Board could reach is that the improvement does contribute to the overall property value.

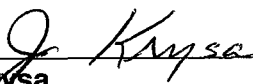
[12] Notwithstanding the above, the Board finds that the December 13, 2011 sale price of the subject property, best reflects its market value as of December 31, 2011.

The assessment is **REVISED** from: \$5,890,000 to: **\$5,700,000.**

DATED AT THE CITY OF CALGARY THIS

13<sup>th</sup>

DAY OF NOVEMBER, 2012.

  
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J. Krysa  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3. C2	Complainant's Rebuttal Submission

*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 ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Land	Development Land	H&B Use, Imp Value