

**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:

Gallotta Nicolina (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, D. Pollard
Board Member, J. Kerrison***

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: 201131166

LOCATION ADDRESS: 4200 - 144 Avenue NW

HEARING NUMBER: 68475

ASSESSMENT: \$542,500

This complaint was heard on the 18th day of September, 2012, at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Six.

Appeared on behalf of the Complainant:

- A. Izard
- B. Brazzell

Appeared on behalf of the Respondent:

- J. Lepine

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

- (1) None

Property Description:

(2) The subject is a rectangular shaped, 19.13 acre parcel of undeveloped land, located on 144 Avenue, north of the Sage Valley subdivision in NW Calgary. Municipal trunk services are installed along 144 Avenue, along the subject's south boundary. The land is designated Special Purpose - Future Urban Development (S-FUD), in accordance with the City of Calgary Land Use Bylaw.

Issues / Appeal Objectives

(3) This is a complaint regarding the land assessment. The land is currently being assessed as farmland in accordance with the procedure as set out in section 4 of the Matters Relating to Assessment and Taxation Regulation (MRAT). The assessment is made up of three acres assessed at the estimated market value rate of \$180,000 per acre, and the remaining land at a farmland rate of \$185.43 per acre.

(4) This property is contained in Annexation Order in Council (Board Order) 333/2007.

(5) In part, the 'Summary of Testimonial Evidence', as set out in the Complainant's submission states as follows;

1. ".....this parcel, since annexed into the City of Calgary, has not triggered any of the "triggering events" listed in Board Order 333/2007.
2. "Altus.....will argue that the property in question should continue to be assessed as farmland within the M.D. of Rockyview as per the direction outlined in the Board Order.
3. Altus will demonstrate that the property is valued as Farm Land already, however with 3 acres at market value, yet according to the 2010 assessment this property was assessed as 100% farm land based on the order. Since this time there has been nothing initiated by the Land owner which would trigger any of the changes observed in the assessed value.
4. As a result, Altus will request that the property be re-instated as 100% farm land, based on the Annexation Order, and that the legislated farm land assessment be applied, of \$3,500.

Complainant's Requested Value: \$14,000 on the Complaint form, revised to \$3,500

Evidence / Argument

(6) The Complainant did not submit any market evidence relative to value, nor did the Complainant dispute the quantum of the rates used by the Respondent.

(7) The Complainant confined his evidence to Annexation Board Order 333/2007. The relevant sections are as follows;

C. 2008 tax year and years following

i. The City of Calgary shall assess the Annexed properties for the 2008 tax year forward as it would assess similar properties (in) the City subject to the exemptions and triggering events specified in Parts D and E below.

D. Farmland exemptions

Up to and including the 2036 tax year, any farm property within the Annexed Properties that qualifies for exemption from taxation shall continue to be exempt from taxation.

E. Triggering Events and Applicable Tax Rates

1. For the 2007 tax year and up to, and including, the 2021 tax year, the City of Calgary will tax the Annexed Properties, except farm properties, using the applicable municipal tax rate for each assessment class as established by Rocky View.

ii. Board Order protection will be lost for any portion of the Annexed Properties if any of the following triggering events occurs to that portion.

(8) The section of the order then goes on to list five instances, all initiated by the owner, where an annexed property would lose Board Order protection. The "Board Order Protection", however, refers to tax rates, and not assessment methodology, or assessment rates and values.

(9) The Respondent presented the following excerpts from Appendix C of Board Order 333/2007

6. Subject to section 7, for taxation purposes in 2007 and subsequent years, up to and including 2021, the annexed land, other than farm property referred to under section 2, and the assessable improvements to it (a) must be taxed by the City of Calgary in respect of each assessment class that applies to the annexed land and the assessable improvements to it using the municipal tax rate established by the Municipal District of Rocky View No. 44,

Board's Findings

(9) All of the discussion contained in the annexation order speaks to the taxation of the annexed property, and not to the method of assessment. Once an assessment has been prepared on a property in a manner that is fair and equitable with similar properties within the City, then the tax rate established by the Municipal District of Rocky View shall apply.

(10) The Complainant has failed to show that the assessment is not fair and equitable with similar properties.

(11) In the Municipal Government Act, Section 460 (6), it states that "There is no right to make a complaint about any tax rate".

Board's Decision

(12) The assessment is confirmed at \$542,500.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF Oct 2012.


 Jerry Zezulka
 Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
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| 1. | C1 Evidence Submission of the Complainant |
| 2. | R1 Evidence Submission of the Respondent |

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.
- (c)

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Decision No. 0932/2012 - P			Roll No. 009007006	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land only	Farmland	N/A	Annexation Order, Tax rates