

**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:**

***Home Depot Holdings Inc. (as represented by AEC International), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***B. Horrocks, PRESIDING OFFICER***

***S. Rourke, MEMBER***

***J. Kerrison, 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:

<b>ROLL NUMBER:</b>	<b>101050409</b>
<b>LOCATION ADDRESS:</b>	<b>6336 MACLEOD TR SW</b>
<b>HEARING NUMBER:</b>	<b>66184</b>
<b>ASSESSMENT:</b>	<b>\$4,970,000</b>

This complaint was heard on the 26th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1

Appeared on behalf of the Complainant:

- Mr. J. Wingrowich (AEC International)

Appeared on behalf of the Respondent:

- Mr. E. D'Altorio (City of Calgary)

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

- [1] There were no concerns with the Board as constituted.
- [2] There were no preliminary matters. The merit hearing proceeded.

**Property Description:**

[3] The subject property is a 1.74 acre paved land parcel located in the Manchester community in SW Calgary. The site is currently used for access to MacLeod Trail, parking, and storage of shopping carts for the "parent property" (Home Depot) located directly east of and abutting the subject. The subject property is zoned C-R3 f0.32h18. The subject is assessed utilizing the Sales Comparison approach and receives a -7% adjustment for parking.

**Issues:**

[4] The Assessment Review Board Complaint Form contained 7 grounds for the complaint. At the outset of the hearing the Complainant advised there was one outstanding issue, namely: "The current assessment exceeds the subject property's best estimate of its market value as of July 1, 2011."

**Complainant's Requested Value:** \$2,528,000 (Complaint Form)  
\$750 (Hearing)

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

**Issue:** What is the market value for assessment purposes?

- [5] The Complainant's Disclosure is labelled C-1.

The Complainant submitted the subject property is owned by Home Depot and is on its own title. The paved land parcel provides additional parking to meet Bylaw requirements for the adjacent improved Home Depot site which is deficient, and as a result, the subject's market value has been captured in the assessment of the "parent property". The subject assessment suggests that the site could be developed as a standalone parcel, when in fact it cannot, therefore it should be assigned a nominal value of \$750 for assessment purposes.

[6] The Complainant, at page 42 provided the index from the City of Calgary Land Use Bylaw -1P2007 July 23, 2007, noting Division 12: Commercial – Regional 3 f#h# (C-R3 f#H#) District is where the development requirements for the subject and the parent site are described. Division 12 of the Land Use Bylaw contains Sections 880 through 896 inclusive. The Complainant advised the subject is zoned C-R3 f0.32h18 which means any development on the site would be restricted to a maximum floor area ratio of 32% and a maximum height of 18 meters.

[7] The Complainant, at page 50, highlighted a section of the Land Use Bylaw titled Minimum Required Motor Vehicle Parking Stalls, noting:

892 *The minimum number of motor vehicle parking stalls:*

(b) *for all other uses is 4.5 stalls per 100.0 square metres of gross usable floor area.*

893 (1) *The minimum number of motor vehicle parking stalls is reduced by 10.0 per cent where:*

(a) *a building that generates the parking requirement is located within 400.0 metres of an existing or approved Capital funded LRT platform; and*

(b) *the number of stalls required was determined by using the provisions referenced in subsections 892(a)(iii) and 892(b).*

[8] The Complainant submitted the critical considerations relative to the use of 6336 MacLeod Trail (the subject) are directly linked to that of the “parent” property at 6500 MacLeod Trail (Home Depot) which is improved with a 122,137 square foot box store.

[9] The maximum floor area ratio for the “parent” property is 0.32. The “parent” site is 348,116 square feet. The resulting floor area ratio is  $122,137/348,116 = .351$ , which is above the allowable density of 0.32. If the subject site and the “parent” site are combined, the resulting floor area ratio is  $122,137 / (348,116 + 75,888) = .288$ , below the permitted maximum density.

[10] Similarly, the improvements at 6500 MacLeod Trail (Home Depot) require 4.5 parking stalls per 100 square metres of gross leasable area, with a 10% reduction because it is located within 400 metres of an LRT station, resulting in a requirement of 460 parking stalls.

[11] The Complainant, at page 55, provided the calculations to demonstrate that the “parent” site (Home Depot) requires 460 parking stalls. That requirement can be met when both the “parent” property and the subject property are combined which results in an excess of 21 stalls.

[12] The Complainant concluded the subject property could not be developed as a standalone parcel, given its relation to the adjacent Home Depot development, in support of its request for an assessment of a nominal amount of \$750. The subject property, or at least a portion of the subject property, is required to bring the development on the “parent” site to a permitted site coverage, and to assist the “parent” site to meet the parking requirements of the Land Use Bylaw. In response to questioning, the Complainant acknowledged that not all of the subject property is required for parking and the subject property could be subdivided.

[13] The Respondent's Disclosure is labelled R-1.

[14] The Respondent, at page 13, provided the parking requirements for the "parent" (Home Depot) site that were generated for the Development Permit (DP 2004-3179) noting that 453 stalls are required. The total stalls that could be provided by combining the "parent" site and the subject site is 624 comprised of 418 from the "parent" site and 206 from the subject site.

[15] The Complainant's Rebuttal is labelled C-2.

[16] The Complainant, at page 4, provided a copy of a Surplus Property Disposition Post Closing Memo, noting that "on November 30, 2011 Home Depot Holdings Inc. and the purchaser entered into a Stub lease to allow the Purchaser early access to the Lands to begin construction of its proposed development (the "Stub Lease"). The Complainant submitted that as at the condition date of December 31, 2011 the "parent" site stall count would be reduced by 99 stalls (as referenced on page 13 of R-1) since the land was being prepped to build the Bank of Montreal improvements.


[17] The Board finds it could not rationalize the numbers provided by the parties because they had used different areas for the Home Depot improvement, so it used the numbers provided by the City to determine that there are 35 parking stalls provided on the subject property that are required to meet the parking requirements for the "parent" (Home Depot) site (453 - 418). Those 35 parking stalls are  $35 / 206 = 16.9\%$  of the available parking stalls on the subject site. The Board placed no weight on the Complainant's rebuttal evidence.

[18] The Board finds the subject site is 75,888 square feet in area. If 17% (rounded) is required for parking, the remainder (83%) or 62,987 square feet is available for development. The market value of that land is calculated to be \$4,579,220 using the base land rates for MT3 contained on page 10 of C-1.

**Board's Decision:**

[19] The 2012 assessment is reduced to \$4,570,000.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF OCTOBER 2012.

  
B. Horrocks  
Presiding Officer

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

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

*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**

<b>Subject</b>	<b>Property type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-issue</b>
CARB	Other	Vacant Land	Sales Approach	Market value