

**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

***Meg Place LP Investment Corp.
(as represented by
Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before

***L. Yakimchuk, PRESIDING OFFICER
J. Massey, MEMBER
G. Milne, 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: 068114305

LOCATION ADDRESS: 115 10 Av SE

FILE NUMBER: 66963

ASSESSMENT: \$1,000,000

This complaint was heard on September 24, 2012 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *M. Cameron, Altus Group Limited*
- *D. Genereux, Altus Group Limited*

Appeared on behalf of the Respondent:

- *A. Czechowskyj, City of Calgary Assessment*

Property Description:

[1] The subject property is assessed as 6,495 square feet (sf) of land situated adjacent to the SunLife/Worley Parsons building on the south side of 10 Av. SE in Calgary's beltline district. It is currently being used for additional parking for the tenants of the adjacent building.

Issues:

[2] Is the assessment equitable in terms of recognition of its use as required parking for the adjacent building?

Complainant's Requested Value: \$1,000

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

Evidence and Arguments

[3] The Complainant, M. Cameron, on behalf of Altus Group Limited argued that the subject property is inaccurately assessed as a commercial land development site and that the site is actually used for parking by the neighbouring office building tenants. Further, he argued that the value for parking is assessed in the adjacent building therefore the parking area should be assessed at a nominal value of \$1,000.

[4] Mr. Cameron went on to propose that a link between the office building and the property was demonstrated through the Land Title Certificate, which shows a title number 101 223 341 + 1 and was registered with the office building 101 223 341 on 28/07/2010 by Meg Place Investment Corp. The subject property is caveated by the lending institution on the same caveat as the adjacent office block, which the Complainant argued meant that they were irrevocably tied together.

[5] The Complainant also argued that there were insufficient parking spaces on the office property to fulfil the requirement of the CC-X Land Use Bylaw Parking Requirements, and that the office required the subject property to provide the additional lots needed. The Complainant presented the Property Assessment Summary Report (C1 p59) for the adjacent office building which included an assessment for 44 parking stalls, with an added explanation that there were 44 underground stalls plus 9 alley stalls = 53 stalls. He argued that the subject property provided the 15 customer and 3 visitor stalls = 18 additional stalls required by the bylaw.

[6] Mr. Cameron provided a list of four proposed comparable properties which were

assessed at the nominal rate of \$1,000 because they were tied to adjacent improvements to fulfil the parking requirements (C1 p64).

[7] The Respondent, A. Czechowskyj, City of Calgary assessor stated that the City of Calgary has taken the direction set out in CARB 2242-2010-P and CARB 2243-2010-P which specifies three conditions that must be present before a token value is applied to a property:

- 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;
- 3) The value of the vacant parcel must be captured in the value of the improved property to which it is linked, that is, the total value of vacant parcel and linked improved parcel must reflect market value.

[8] Mr. Czechowskyj argued that condition 3) had not been met because the adjacent property had been assessed for the value of the 53 parking stalls listed on its Assessment Request for Information (ARFI) (R1 p44) and not for the surface parking on the subject property.

[9] The Respondent also presented a list of Beltline Land Sales to support the assessed value of \$155/sf (R1 p78).

[10] The Complainant presented a rebuttal document which indicated that there were probably only 32 parking stalls on the assessed property.

[11] In summation the Complainant argued that the appeal was about assessing an equitable value for the property, and that the assessment of the subject parking area was included in the adjacent building. Further, he argued that the documentation provided showed a link between the assessed property and the adjacent office building, and that there are not restrictive covenants on all of the Comparables listed in C1.

[12] The Respondent summarized by saying that the ARFI indicated how many stalls existed on the adjacent property and that the subject property was not assessed with the adjacent property. He argued that the subject property could be sold separately from the adjacent property, as there were no legal documents to indicate that it could not and that given sales of similar properties, the subject was accurately assessed at \$155/sf or \$1,000,000.

Board Findings

[13] The Board reviewed the CARB 1507-2012-P decision on adjacent/linked parking. However, the issue in that decision was "Should the parcel be assessed based on its actual use or on its land value based on sales comparisons with other parcels?" and that issue was not addressed in this merit hearing. The second issue of nominal assessment associated with linked parking had been argued with different evidence than this hearing and was not comparable in this case.

[14] The Board found that the Complainant had not demonstrated that there was a link that prevented the sale of the subject property separately from the adjacent property. The only clear link was in the mortgage shared by the two properties, and that would not limit the ability to sell the properties separately.

[15] There was also no documentation to prove that the parking on the subject was assessed

with the adjacent property. The ARFI (R1 p44) and the Property Assessment Summary Report (C1 p59, 60) indicated that the only parking assessed with the adjacent building was on that office building property. The Board found that in the interest of equity the value of all property should be reflected in the tax assessments.

[16] For these reasons, the Board supports the current assessment.

Board's Decision:

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

DATED AT THE CITY OF CALGARY THIS 5th DAY OF October 2012.


Lana Yakimchuk
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. R2	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:

Decision No. 1950-2012-P

Roll No. 080007305

Subject	Type	Issue	Detail	Issue
CARB	Vacant Land	Land Use	Linked parking	Equity