

**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:

***Totem Developments Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
M. Grace, MEMBER
J. Pratt, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] 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:	034183814
LOCATION ADDRESS:	416 41 Avenue NE
LEGAL DESCRIPTION:	Plan 7410938; Block 13; Lot A
HEARING NUMBER:	66817
ASSESSMENT:	\$ 1,200,000

- [1] This complaint was heard on the 16 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 3, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 8.
- [2] Appeared on behalf of the Complainant:
- K. Fong Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- R. Farkas Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] No preliminary, procedural, or jurisdictional matters were identified.

SECTION B: Issues of Merit

Property Description:

- [5] Constructed in 1987, the subject – 416 41 Avenue NE, is an unheated single-storey warehouse building located one block west of Edmonton Trail just north of 41 Avenue NE in a community known as Greenview Industrial Park.
- [6] The Respondent prepared the assessment showing 4,316 square feet of warehouse space graded as a 'C+' quality and 848 square feet of storage space. The site has an area of 41,421 square feet calculating site coverage of 10.43%. The Respondent deems a 30% site coverage as typical, which results in 26,982 square feet of additional land.

Matters and Issues:

- [7] The Complainant identified two matters on the complaint form:
- Matter #3 - an assessment amount*
 - Matter #4 - an assessment class*
- [8] Following the hearing, the Board met and discerned that these are the relevant questions which needed to be answered within this decision:
1. *Is the subject's assessment correct, fair, and equitable?*

Complainant's Requested Value:

- \$720,000 on complaint form
- \$100,000 in disclosure document

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount*****Question 1 Is the subject's assessment correct, fair, and equitable?*****Complainant's position***

- [9] The Complainant's position is that the subject is worth a nominal value in that the value of the land has been captured in the assessment of the adjacent property through the income approach. (C1 p. 3)
- [10] The Complainant reviewed the subject with; 2012 Property Assessment Notice, Property Assessment Summary Report, 2012 Business Assessment Notice, 2012 Industrial Assessment Explanation Supplement, maps, and photos. (C1 pp. 90-99)
- [11] The Complainant demonstrated how the adjacent property assessment was created finding a nominal value of \$2 per square foot for storage space. (C1 pp. 100-105)
- [12] The Complainant showed an alternative valuation as vacant land using the 2012 Industrial Land Values guide provided by the Respondent. The Complainant used the NE Industrial-General (I-G) rate to derive a value of \$760,000. (C1 pp. 106-107)
- [13] The Complainant reviewed a map from a Respondent webpage showing the subject, an adjacent property where the retail portion is located and another site across street for parking. (C1 p. 110)
- [14] The Complainant provided the land use designation for Commercial – Corridor 3 (C-COR3) to demonstrate the purpose, permitted uses and rules that apply to set-backs and parking. The exercise is to establish that the adjacent property requires 93 parking stalls and provides 54 leaving a shortfall of 39 parking stalls, which the subject must provide. This exercise was completed to demonstrate that the two properties are virtually considered one and if they were assessed as one than the value of the subject would be \$100,000. (C1 pp. 112-133)

Respondent's position

- [15] The Respondent argued the legislation is clear, that each separately titled property must be assessed separately. Furthermore, the assessment for 2012 is reflective of a negotiated agreement in 2011 that saw the assessment drop to its current valuation. (R1 p. 2 and p. 17)
- [16] The Respondent reviewed the subject details; map, photos, and computer screen shots showing the land use designation as C-COR3 versus the I-G rate referred to in the Complainant's argument. (R1 pp. 4-9)

- [17] The Respondent demonstrated that the assessment would be \$1,790,000 if assessed at market value and that the assessment is \$1,200,000 because of an agreement between the parties in 2011. (R1 p. 10)
- [18] The Respondent provided *CARB* decision 0720/2012-P by J. Krysa *et al.*; wherein it was found that two adjacent parcels must be assessed separately even when there is the requirement of the two properties combined to meet land use designation requirements. (R1 pp. 11-16)

Board's findings

- [19] The Board finds no evidence to suggest the subject property is required by the adjacent property and therefore captured in its value. Furthermore, if the Board had found that was the case, as per the Krysa decision *CARB* 0720/2012-P, the Board is bound to assess all properties separately.
- [20] The Board finds the subject is protected by land use designation C-COR3 and benefits from the uses that are both permitted and discretionary; therefore, the Complainant is benefiting from that value and should be assessed at the C-COR 3 rate versus the requested I-G rate.

Matter #4 - an assessment class

- [21] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [22] After considering all the evidence and argument before the Board it is determined that the subject's assessment is correct at a value of \$1,200,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF December 2012.


J. Dawson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Rebuttal 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.*

Municipal Government Board use only: Decision Identifier Codes

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Single Tenant	Sales Approach	Land Value