

**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:

742763 ALBERTA INC., COMPLAINANT
(Represented by Colliers International Realty Advisors)

and

The City Of Calgary, RESPONDENT

before:

Board Chair P. COLGATE
Board Member S. ROURKE
Board Member R. DESCHAIINE

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 2011 Assessment Roll as follows:

ROLL NUMBER: 201059359

LOCATION ADDRESS: 1501 17 AVENUE SW

HEARING NUMBER: 61209

ASSESSMENT: \$2,550,000

This complaint was heard on 24 day of August , 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Scott Meiklejohn, Colliers International Realty Advisors Inc. – Representing 742763 Alberta Inc.*

Appeared on behalf of the Respondent:

- *Jim Toogood – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

The subject property is a 1952 vintage low rise, mixed-use retail building located on 17th Avenue S.W. in the community of Bankview. The 9,849 sq. ft. building is located on a 12,466 sq ft parcel comprising the corner lot of 17 Avenue S.W. and 14A Street S.W. The property is assessed for land only.

Issues:

The parcel has been incorrectly assessed as though located in BL6, instead of BL5. The parcel should have an additional -15% allowance applied for the shape. The parcel should not be assessed an allowance of +5% for being a corner lot.

Complainant's Requested Value: \$1,642,385.50

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

Complainant's Evidence:

The Complainant presented site maps and an aerial photography to show the location of the subject property. Five street level photographs were provided to location, shape and rear parking area.

On the basis of the maps and photographs the Complainant presented the request for the additional allowance for shape of the lot and the location on the corner not adding value to the property.

Also provided was a copy of the City of Calgary Assessment Summary Report (C1, Pg 23),

which stated basic information with respect to the subject property – Roll Number, Valuation Approach, Assessment Class, Assessable Land, Community, Influences, etc.

The Complainant provided a copy of the 2011 Assessment Explanation Supplement (C1, Pg 25) which showed the calculation used to determine the current assessment value – Land Area X Land Rate X Site Influence = Total Current Assessment.

The Complainant provided the Board with two documents provided to the public – the 2011 Beltline Non Residential Land Rates (C1, Pg 29), which shows the location and rates applied in each of the NRZ (non-residential zones) and a 2011 Beltline Influence Chart (C1, Pg 30), which shows a -15% adjustment for 'Shape-Reduced Functionally'.

The Complainant submitted a copy of a Beltline Land Sales chart the City of Calgary had presented at the hearing on Roll Number 079128401 on June 15, 2011 (C1, Pg 33). The chart provides validation for the \$195.00 rate assigned to land for most of the Beltline community, but also a sale in the BL5 NRZ supporting the \$155.00 rate for land.

The last document of note to the Board is the Requested Amount chart showing the current and the requested assessments.

Respondent's Evidence:

The Respondent provided the Board with a number of documents – a location map and aerial photography of the subject property and copies of the 2011 Property Assessment Notice and the 2011 Assessment Explanation Supplement.

The Respondent provided a screen print of the City of Calgary internal computer system – specifically the Account Viewer – to show the subject was being assessed in 'SubMarket Area' NONRES BL6 (R1, Pg 15). This document was presented to show the subject property was assessed in a different zone than shown on the '2011 Beltline Non Residential Land Rate' map (R1, Pg 17). The Respondent testified the map was incorrect and the BL6 zone had been extended further along the 17th Avenue Corridor to approximately 16 Street SW due to the 17th Avenue exposure. The Respondent was unable to explain why the City of Calgary continued to provide and submit an incorrect map to the public and the Board.

The Respondent provided a Beltline Land Sales chart (R1, Pg 19), with five sales in support of the rate of \$195.00 per square foot.

Additionally, the Respondent provided four equity comparables of properties in the immediate vicinity to show the rate has been applied to similarly assessed properties along 17th Avenue SW.

Findings of the Board

Complainant's Submission:

In the opinion of the Board, the evidence presented by the Complainant does not establish the case for the removal of the corner allowance nor the addition of an allowance for shape on the

parcel.

From the photographs submitted it is clear the location experiences an advantage from being located on the corner as a business along 14a Street SW would have increased exposure (R1, Pg 18). The photography submitted of the rear area clearly shows a space which can be fully utilized. At this time the space allows parking for tenants and possibly clients of the businesses in the building (R1, Pg 21). Also the size of the parcel shows no restriction to any future development of the site. Accordingly the Board will not adjust the allowance applied to the site.

On the issue of land rate and which NRZ the subject should be placed, the Board finds the Complainant has provided evidence to support the request for the change to the rate. Based upon the 2011 Beltline Non Residential Land Rates map produced by the City of Calgary, it was clearly shown the subject property is located within the area designated as BL5 with a land rate of \$155.00 per square foot.

The Board notes however the Complainant, with the exception of a chart taken from a City of Calgary submission for another hearing, provides no evidence in support of a lower land rate. The Board looks to both parties to provide evidence in support of their position.

Respondent's Submission:

The Board is concerned with the evidence presented by the Respondent with respect to the conflict between the map and the rates applied to the subject property. The Respondent explained the map was wrong and the City of Calgary was aware of the error but rather than correct it has continued to provide it as part of the submission. If it is known to be wrong why not correct the document rather than submit one which contradicts the process of the Respondent?

The Respondent had provided five sales in the Beltline area to support the \$195.00 rate, as applied to the subject. The Board takes note the sales are all further east of the subject property, more in the centre of the Beltline area.

The Board finds the Respondent's equity comparables show properties in the immediate vicinity are assessed at a rate of \$195.00 per square foot. However, the Board is again faced with a lack of market evidence to support the rate applied by the City for those properties west of 14th Street SW.

Board's Decision:

In the opinion of the Board no evidence has been submitted to substantiate a change to the allowance applied to the subject property.

In the opinion of the Board, the City of Calgary has created the problem placed before it with respect to the proper NRZ (Non-residential Zone). When the City of Calgary prepares a document, which it distributes to the public, it is paramount the document is correct. The continued use of the map in the submission – 2011 Beltline Non Residential Land Rates – which the Respondent admitted in the hearing was wrong, can only lead to confusion on the part of

owners. The owners and the agents are left asking, 'Where is my property located – BL5 or BL6?' and 'Why is the rate applied incorrect?' The Respondent states the NRZ for BL6 has been extended further west along 17th Avenue SW, but the only evidence to support this is a screen print of the Account Viewer from the internal City of Calgary computer system which lists the 'SubMarket Areas' as BL6. This document is not available to the public except as part of a submission.

Based upon the confused information provided by the City of Calgary to the public and this Board, the Board finds in favour of the Complainant with respect to the land rate applied to the subject and adjusts the assessment accordingly.

The Board is also of the opinion the City of Calgary review the documents which are being added to the Beltline submissions to ensure they are correct.

It is the decision of the Board to reduce the assessment \$2,020,000.00.

DATED AT THE CITY OF CALGARY THIS 19th DAY OF September 2011.



Philip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*