

**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:**

***Western Securities Limited  
(as represented by Altus Group Limited), COMPLAINANT***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***J. Dawson, PRESIDING OFFICER  
H. Ang, MEMBER  
P. McKenna, 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:

<b>ROLL NUMBER:</b>	<b>130152705</b>
<b>LOCATION ADDRESS:</b>	<b>10816R Macleod Trail SE</b>
<b>LEGAL DESCRIPTION:</b>	<b>Plan 8711688; Block 2; Lot 7</b>
<b>HEARING NUMBER:</b>	<b>67565</b>
<b>ASSESSMENT:</b>	<b>\$ 2,300,000</b>

- [1] This complaint was heard on the 9<sup>th</sup> and 10<sup>th</sup> 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 10.
- [2] Appeared on behalf of the Complainant:
- K. Fong                      Agent, Altus Group
  - D. Main                     Agent, Altus Group (October 9, 2012 only)
- [3] Appeared on behalf of the Respondent:
- I. McDermott              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 1979, the subject – 10816R Macleod Trail SE, is a single-storey retail structure and that forms one of five assessments that comprise Willow Park Village Shopping Centre. The subject building is attached to another retail building on a different roll. The subject is located in the community of Willow Park, adjacent to 109 Avenue SE, and between Bonaventure Drive and Macleod Trail SE. There are no access points to the property except from adjoining properties of the same shopping centre. The community is also called Willow Park.
- [6] The 6,294 square foot building is graded as an 'A2' quality yet is deemed to have no value. The Respondent prepared the assessment using the direct comparison approach as if vacant land, which derived a value of \$2,304,860 for a truncated assessment of \$2,300,000. The site has an area of 25,081 square feet.

#### **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 this is the relevant question which needed to be answered within this decision:
1. *What is the correct commercial land value along Macleod Trail?*

**Complainant's Requested Value:**

- \$1,050,000 on complaint form
- \$1,504,860 in disclosure document
- \$1,500,000 at hearing confirmed as the request

**Board's Decision in Respect of Each Matter or Issue:*****Matter #3 - an assessment amount*****Question 1 What is the correct commercial land value along Macleod Trail?*****Complainant's position***

- [9] The Complainant argued that there are no 'land only' sales along Macleod Trail during the valuation period and the assessed value of \$100 per square foot is in excess of actual market value. The Complainant contends \$60 per square foot is the market value demonstrated by recent sales activity. (C1 p. 3)
- [10] The Complainant reviewed the 2012 Property Assessment Notice that shows a 19% year over year increase in the assessment. The Complainant showed maps, photos, the Property Assessment Public Report, and 2012 Assessment Explanation Supplement to illustrate that the subject does have a retail structure built in 1979 that is an 'A2' quality grading, despite the zero value attributed to improvements by the Respondent. (C1 pp. 8-9 and 16-20)
- [11] The Complainant argued that the income approach to value is the preferred method of establishing market value for retail properties like the Willow Park Village. Typically classified as 'Retail Strip Centres', using the income approach, equitable treatment would dictate an 8% capitalization rate, 5% vacancy allowance, 1% non-recoverable allowance, \$8 vacant space shortfall, and rental rates of \$25 per square foot for 3,720 square feet and \$23 per square foot for 2,574 square feet. (C1 pp. 11-14)
- [12] The Complainant reviewed Matters Relating to Assessment and Taxation Regulation [MRAT] to demonstrate regulatory requirements as they pertain to mass appraisal and assessment. (C1 pp. 22-33)
- [13] The Complainant provided excerpts of a Highest and Best Use workshop conducted by the International Association of Assessing Officers [IAAO] to emphasise the annual function of assessments is to eliminate the speculation of what a property could be versus what it is as of the valuation date. (C1 pp. 35-40)
- [14] The Complainant presented a list of 22 city-wide sales with similar C-COR3 land use designation. The sales occurred between April 2009 and August 2011 and are narrowed to four comparable sales along Macleod Trail. The chart below is replicated from the Complainant's disclosure to summarise the analysis of the Complainant. (C1 pp. 43-63)

Address	Building Type	Land Area – Square Feet	Building Area – Square Feet	Purchase Price	Sale Value / square foot of land	Marshall & Swift Costing Improvement Value	Underlying Land Value	Land Value / square foot
5720 Macleod Trail SW	Office/ Retail	31,363	28,566	\$3,500,000	\$111.60	\$1,612,750	\$1,887,250	<b>\$60.17</b>
7212 Macleod Trail SE	Retail	44,867	6,405	\$2,900,000	\$64.64	\$481,879	\$2,418,121	<b>\$53.90</b>
7425 Macleod Trail SW	Office	23,980	6,250	\$2,900,000	\$120.93	\$1,004,805	\$1,889,195	<b>\$79.03</b>
9110 Macleod Trail SW	Retail Shopping Centre	165,528	42,079	\$15,000,000	\$90.62	\$5,299,000	\$9,701,000	<b>\$58.61</b>
Mean		66,435		\$6,075,000	\$96.95			<b>\$62.93</b>
Median		38,115		\$3,200,000	\$101.11			<b>\$59.39</b>
Weighted Mean		-		-	\$91.44			

- [15] The Complainant concluded from this analysis that the subject's land value is \$60 per square foot calculating a total of \$1,504,860 for the 25,081 square foot property.
- [16] The Complainant provided recent Board decisions of similar circumstance to support their case. (C1 pp. 66-99)

### ***Respondent's position***

- [17] The Respondent countered stating the Complainant utilised a residual land method to determine the outcome of four sales along Macleod Trail from 2009 and 2010. The Respondent alleges that the Complainant's use of an inaccurate effective age versus actual age within Marshall & Swift calculations results in inaccurate land values. (R1 p. 3)
- [18] The Respondent summarised their methodology to derive Retail Property Valuations and the conclusion for the subject at \$2,300,000. (R1 pp. 4-6)
- [19] The Respondent presented two city-wide sales between February 2009 and May 2011. The chart below is replicated from the Respondent to summarise the analysis of the Respondent. (R1 pp. 8)

Address	Land Use Designation	Land Area – Square Feet	Purchase Price	Time Adjusted Purchase Price	Time Adjusted Land Value / square foot	Influence	Land Value / square foot
505 16 Avenue NE	C-COR1	16,988	\$2,060,000	\$1,931,250	<b>\$113.68</b>	Corner 5%	<b>\$108.27</b>
210 16 Avenue NE	C-COR1	6,241	\$625,000	\$625,000	<b>\$100.14</b>	-	<b>\$100.14</b>

- [20] The Respondent concluded from these two sales on 16 Avenue NE that Macleod Trail submarkets of MT2, MT3, MT4 and MT5 are valued at \$100 per square foot for the first 20,000 square feet, \$60 per square foot for 20,001 to 135,000 square feet, and \$28 per square foot for

the remainder. The Respondent indicated that 16 Avenue can be compared with Macleod Trail because they both exhibit large traffic counts. Traffic count is a value consideration in the opinion of the Respondent.

- [21] The Respondent as additional support of their value conclusion presented a *post facto* sale: (R1 pp. 9-11)

Address	Land Use Designation	Land Area – Square Feet	Purchase Price	Time Adjusted Purchase Price	Time Adjusted Land Value /square foot	Influence	Land Value /square foot
6550 Macleod Trail SW	C-R3	36,380	\$4,250,000	\$4,250,000	\$116.82	-	\$116.82

- [22] The Respondent rebutted certain information provided by the Complainant for sales comparables; in particular, the effective age, number of floors, condition, and land use designation. Information on Marshall & Swift is also presented. With these changes the Respondent created a revised value conclusion for the four comparables: (R1 pp. 12-29)

Address	Building Type	Land Area – Square Feet	Building Area – Square Feet	Purchase Price	Sale Value /square foot of land	Marshall & Swift Costing Improvement Value	Underlying Land Value	Land Value /square foot	Influence	Land Value /square foot
5720 Macleod Trail SW	Office/ Retail	31,363	28,566	\$3,500,000	\$111.60	\$1,191,691	\$2,308,309	\$73.60	Topography 30%	\$105.14
7212 Macleod Trail SE	Retail	44,866	6,405	\$2,900,000	\$64.64	\$0	\$2,900,000	\$64.64	-	\$64.64
7425 Macleod Trail SW	Office	23,980	6,250	\$2,900,000	\$120.93	\$510,417	\$2,389,583	\$99.65	-	\$99.65
9110 Macleod Trail SW	Retail Shopping Centre	165,528	42,079	\$15,000,000	\$90.62	\$4,037,660	\$10,962,340	\$66.23	Corner 5%	\$63.07

- [23] The Respondent provided land use designation details of C-COR1, C-COR3 and C-R3 to demonstrate their comparability. No analysis of comparability is provided; however, verbal testimony is that they are nearly identical. (R1 pp. 30-63)
- [24] The Respondent concluded with a request to confirm assessment as correct, fair and equitable. (R1 p. 69)

### ***Complainant's rebuttal position***

- [25] The Complainant argued that the sale of 210 16 Avenue NE is not a land only sale as reported by the Respondent; at the time of sale the property had a building with a tenant and was being offered as an investment opportunity versus a vacant land sale. (C2 p. 13)
- [26] The Complainant reviewed details of the sale at 505 16 Avenue NE showing that there are no reported brokers which typically indicates that the property has not been exposed to the open market; furthermore, the Complainant provided an email from an employee of the purchaser that

seems to corroborate this position. The property was purchased by a business currently located directly across the street that wishes to expand their presence within the same vicinity; this may indicate that a typical willing buyer – willing seller situation has not occurred. The purchaser may have had non-typical motivation to proceed with a purchase. These factors cast doubt on the validity of the sale for assessment purposes. (C2 pp. 38-51)

- [27] The Complainant pointed out that the *post facto* sale at 6550 Macleod Trail SW occurred on March 1, 2012 – some 9 months after the valuation date and should not be considered by the Board. (C2 pp. 15-17)
- [28] The Complainant pointed out, using the Property Assessment Detail Report, that the property located at 5720 Macleod Trail SW is not adjusted for Topography currently by the Respondent and should not receive an adjustment in the analysis of the sale. The Complainant provided photos and other evidence to show that the property at 5720 Macleod Trail SW does not suffer from topography issues and several properties nearby with similar topography do not have the topography influence listed on their property reports. (C2 p. 18 and pp. 149-170)
- [29] The Complainant provided an Alberta Data Search document for 7212 Macleod Trail SE indicating that at the time of sale the building on the property had a pending development application for an addition refuting the contention of the Respondent that the building had no value. (C2 p. 19 and pp. 193-204)
- [30] The Complainant reviewed an Alberta Data Search document for 7425B Macleod Trail SW pointing out that the building had significant upgrades and its effective age is a subjective call by the person using Marshall & Swift. (C2 p. 20 and pp. 205-217)
- [31] The Complainant pointed out, using the Property Assessment Detail Report, that the property located at 9110 Macleod Trail SW is not adjusted for corner lot currently by the Respondent and should not receive an adjustment in the analysis of the sale. (C2 p. 21 and pp. 218-252)
- [32] The Complainant provided information on the Marshall & Swift cost calculation estimates. The effective age is not the actual age of the property but a subjective estimate by a professional using the calculation software. The Complainant showed the large disparity in effective age between the Complainant's and the Respondent's calculations. The Complainant provided examples where the Respondent changed the effective age of buildings from their actual age. (C2 pp. 22-32 and 116-148)
- [33] The Complainant submitted several previous decisions regarding the validity of sales not exposed to the open market and their value for assessment purposes. (C2 pp 52-112)

### **Board's findings**

- [34] Three valuation approaches are acceptable – sales comparison approach, income approach, or cost approach; however, the valuation approach that produces the most reliable result is the one that should be selected. Typically, the income approach to value produces the most reliable result for income producing properties. The Respondent must reflect market value with their assessment; therefore, if the income approach does not produce the most reliable result, than the Respondent should use another approach to value.
- [35] The Respondent concluded from two sales on 16 Avenue NE that Macleod Trail submarkets of

MT2, MT3, MT4 and MT5 are valued at \$100 per square foot for the first 20,000 square feet, \$60 per square foot for 20,001 to 135,000 square feet, and \$28 per square foot for remainder. The Board is unable to see the rationale for the three ranges of value from the evidence provided – both sales are for property under 20,000 square feet – no evidence indicates a break point over 20,000 square feet. However, the Board notes that the Complainant provides no evidence or argument in favor or against the assessed values set by the Respondent for commercial land greater than 20,000 square feet.

[36] The Respondent indicated that 16 Avenue can be compared with Macleod Trail because they both exhibit large traffic counts. Traffic count is a value consideration in the opinion of the Respondent. The Board notes that the Respondent places great value in the traffic counts along Macleod Trail and 16 Avenue; however, refuses to acknowledge any value consideration for land use designation.

[37] The Board reviewed the land use designations of the comparable properties. There seems to be substantive differences in the purpose statement, and land uses of each land use designation:

1. *Commercial Corridor 1 (C-COR1) offers commercial with residential integration with walk-able feel. It offers 30 permitted uses and 37 discretionary uses for 67 uses. C-COR1 has 8 permitted or discretionary uses that are not available in C-COR3; these uses are: Home Based Child Care – Class 1; Home Occupation – Class 1; Addiction Treatment; Artist's Studio; Custodial Care, Dwelling Unit; Home Occupation – Class 2; Live Work Unit; and Residential Care;*
2. *Commercial Corridor 3 (C-COR3) offers strictly commercial use geared towards motor vehicles. It offers 38 permitted uses and 48 discretionary uses for 86 uses. In all C-COR3 has 28 permitted or discretionary uses that are not available in C-COR1; these uses are: Auction Market – Other Goods; Health Services Laboratory – without Clients; Vehicle Rental – Minor; Vehicle Sales – Minor; Amusement Arcade; Auto Body and Paint Shop; Auto Service – Major; Auto Service – Minor; Beverage Container Drop-Off Depot; Car Wash – Multi-Vehicle; Car Wash – Single Vehicle; Dinner Theatre; Drinking establishment – Large; Drive Through; Funeral Home; Gaming Establishment – Bingo; Gas Bar; Large Vehicle Sales; Market; Night Club; Performing Arts Centre; Power Generation Facility – Medium; Printing, Publishing and Distributing; Recreation Vehicle Sales; Restaurant: Food Service Only – Large; Restaurant: Licensed – Large; Vehicle Rental – Major; and Vehicle Sales – Major. While C-COR3 has 7 permitted or discretionary uses that are not available in C-R3; these uses are: Auction Market – Other Goods; Health Services Laboratory – without Clients; Auto Body and Paint Shop; Large Vehicle Sales; Printing, Publishing and Distributing; Recreation Vehicle Sales; and Sign – Class F; and*
3. *Commercial Regional 3 (C-R3) offers strictly commercial use at a large regional location geared towards motor vehicles and integration with transit. It offers 43 permitted uses and 36 discretionary uses for 79 uses. C-R3 has 4 permitted or discretionary uses that are not available in C-COR3; these uses are: Computer Games Facility; Indoor Recreation Facility; Pawn Shop; and Place of Worship – Medium.*

[38] The Board has no evidence to quantify the differences in the uses listed in each land use designation.

[39]

The Board considered all seven sales comparables presented by both parties:

1. **6550 Macleod Trails SW** – the Board did not accept this sale for many reasons. The sale occurred March 1, 2012 – 8 months post facto. The property has a different land use designation – C-R3 with no analysis on their differences. There is question whether a building is or is not included with the sale. An adjacent landowner who has ongoing business relationships with the vendor purchased the property. There is no indication that the sale had exposure to the open market. There is no indication the sale was at a market value. The property has the traffic influences from both Macleod Trail and a much busier Glenmore Trail. In addition, the property is located across the street from one of the busiest shopping centres in the nation.
2. **505 16 Avenue NE** – the Board did not accept this sale because the evidence is this sale had not been exposed to the open market. In addition, there is no indication the sale is at market value.
3. **210 16 Avenue NE** – the Board accepted this sale as presented because there is no evidence that this sale was not exposed to the open market, and no evidence that there is value in the improvements sold.
4. **5720 Macleod Trail SW** – the Board accepted this sale and relied on the Marshall & Swift calculation provided by the Respondent because the Complainant incorrectly defined the structure within their Marshall & Swift calculation. The Board did not accept the topography adjustment from the Respondent because there is no evidence to establish that there is an issue with the topography.
5. **7212 Macleod Trail SE** – the Board accepted this sale as vacant land because the intentions of the seller indicate little value in the building – the vendor marketed the site primarily as a redevelopment site.
6. **7425 Macleod Trail SW** – the Board accepted this sale and relied on the Marshall & Swift calculation provided by the Complainant (adjusted for GST), because it appeared to be a reasonable valuation for the improvement and the Respondent had not conducted an inspection of the structure to estimate an effective age.
7. **9110 Macleod Trail SW** – the Board accepted this sale and relied on the Marshall & Swift calculation provided by the Complainant (adjusted for GST), because it appeared to be a reasonable valuation for the improvement and the Respondent had not conducted an inspection of the structure to estimate an effective age.

[40]

As there was agreement, the Board accepts the assessed value of \$60 per square foot value for the 20,001 through 135,000 square foot range and \$28 per square foot value for areas 135,001 square feet and greater. Using reverse math calculations, the Board is able to find the correct values for the first 20,000 square feet of the commercial land comparables.

[41]

The Board finds, in the chart below, that the value for commercial land along Macleod Trail is \$80 per square foot for the first 20,000 square feet.



Address	Purchase Price	Land Area - Square Feet	Marshall & Swift Costing Improvement Value - adjusted for GST	Underlying Land Value	Influence	135,001 square feet or greater at \$28.00	20,001 to 135,000 square feet at \$60.00	1st 20,000 square feet at \$80.00	Land Value / square foot 1st 20,000
210 16 Avenue NE	\$625,000	6,241	\$0	\$625,000	-	\$0	\$0	\$625,000	\$100.14
5720 Macleod Trail SW	\$3,500,000	31,363	\$1,191,691	\$2,308,309	-	\$0	\$681,780	\$1,626,529	\$81.33
7212 Macleod Trail SE	\$2,900,000	44,866	\$0	\$2,900,000	-	\$0	\$1,491,960	\$1,408,040	\$70.40
7425 Macleod Trail SW	\$2,900,000	23,980	\$956,957	\$1,943,043	-	\$0	\$238,800	\$1,704,293	\$85.21
9110 Macleod Trail SW	\$15,000,000	165,528	\$5,046,666	\$9,953,334	Corner 5%	\$294,784	\$8,100,000	\$1,084,582	\$54.23
Median		31,363							\$81.33
Mean		54,396							\$78.26

[42] The Board finds, for the subject's 25,081 square feet, that the value for the first 20,000 square feet is \$80 per square foot, and for the remaining 5,081 square feet, the value is \$60 per square foot.

Address	Purchase Price	Land Area - Square Feet	Marshall & Swift Costing Improvement Value	Underlying Land Value	Influence	135,001 square feet or greater at \$28.00	20,001 to 135,000 square feet at \$60.00	1st 20,000 square feet at \$80.00	Land Value / square foot 1st 20,000
Subject		25,081	\$0	\$1,904,860	-	\$0	\$304,860	\$1,600,000	\$80.00


**Matter #4 - an assessment class**

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

**Board's Decision:**

[44] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a truncated value of \$1,900,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 17<sup>th</sup> DAY OF December 2012.

  
J. Dawson,  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure – 120 pages
2. R1	Respondent Disclosure – 94 pages
3. C2	Rebuttal Disclosure – 273 pages

*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.*

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Cost/Sales Approach	Land Value