

**CALGARY
COMPOSITE 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:

Nedohin Holdings Ltd., as represented by Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

M.P. Grace, MEMBER

D. Pollard, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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:	113011803
LOCATION ADDRESS:	1221 73 Av S.E. Calgary, AB
HEARING NUMBER:	62174
ASSESSMENT:	\$2,240,000

This complaint was heard on the 29th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *A. Izard, Altus Group Ltd.*
- *D. Nedohin, Nedohin Holdings Ltd.*

Appeared on behalf of the Respondent:

- *J. Ehler, City of Calgary*

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

There were no procedural or jurisdictional matters raised at the hearing.

Property Description:

The property under complaint consists of land and buildings, specifically: a C quality, free-standing, 12,544 sq.ft., retail building constructed in 1991, situated on a 1.15 acre parcel located in the East Fairview Industrial district, designated as Commercial-Corridor 3 (C-COR 3) in the City's Land Use Bylaw. The premises are occupied by Favari's Unpainted Furniture and have been assessed at its highest and best use as vacant land, based on the sales comparison approach, at a blended rate of \$45 per sq.ft. which includes a 5 per cent adjustment for corner influences.

Issues:

Does the sales comparison approach for vacant land produce the best indicator of market value and is the parcel equitably assessed with respect to other properties in the immediate vicinity?

Complainant's Requested Value: The assessment requested on the Complaint Form was \$1,684,000. This was amended in the Complainant's disclosure to \$1,400,000 based on the income approach.

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

The Complainant advised that the property had previously been zoned Industrial 2 (I-2) but was redesignated in 2008 to the C-COR 3 classification. He also noted that, in previous years, the property was assessed using the income approach and that the change in assessment approach has resulted in a year-over-year increase in assessed value of 93 per cent. The Respondent's correspondence to the Complainant indicates a difference of about \$1.3 million per acre for the first acre plus an additional amount for the residual land under the new land use district.

The Complainant argued that the business is an ongoing concern with 6,788 sq.ft. used as retail floor space and the balance of 5,766 sq.ft. occupied as storage. The building is 20 years old

and is in reasonable condition with significant economic life remaining. He argued that there are no plans under consideration or permits issued to suggest that any redevelopment is proposed for the property or that the property has been offered for sale. He pointed to a vacant 45 acre parcel across the street where development permits were approved but which did not proceed because of economic conditions. It is not reasonable, he submitted, that the owner would give up an ongoing business and the revenue it generates in order to tear down the building and offer the site as vacant land in the current circumstances. The property has no access from Heritage Drive and northbound access only from 11 St. S.E. It is further encumbered by a caveat protecting an access easement in favour of the adjacent landowner. Parcels of land immediately adjacent to the subject are assessed using the income approach and are also in an IC land use designation. Their land only assessment would be less than one-third of the subject assessment at \$600,000 per acre.

The Respondent took the position that when a higher rate of return can be achieved from the sale of a vacant property than can be earned from the income approach, then the land should be assessed at its highest and best use as vacant land. From sales comparisons, the Respondent has determined that C-COR 3 lands should be assessed at \$65 per sq. ft. on the first 20,000 sq.ft. and \$28 per sq.ft. on the remaining land. The Respondent offered four sales in support of this valuation.

The Board found that none of these sales were good comparables to the property under complaint, whether by location, size or property use. The only property that showed a similar sales price to the assessment of the subject has contamination problems as evidenced by the Complainant's geotechnical report.

The Board determined, based on the Complainant's argument and the Respondent's sales evidence, that the income approach is the best determinant of market value in this instance. This is a functioning business. In the Board's view vacant land is, of itself, not the highest and best use of a property. There needs to be an expectation that a profitable use can be made of that vacant land within a reasonable time frame. There also needs to be a market for the vacant parcel. Neither of these has been demonstrated. The Respondent has not demonstrated an appropriate market, much less the most profitable use within that market. This property does generate an income stream and the Complainant, in calculating that stream for assessment purposes, has used \$16 per sq.ft. for the retail component, consistent with the rate used by the Respondent on adjacent properties, and \$3.00 per sq.ft. on the storage space. The Respondent did not challenge these requested rates; only the approach to value. The Board, then, accepted the Income Approach and reduced the assessment.

Board's Decision:

The 2011 Assessment is reduced to \$1,400,000

DATED AT THE CITY OF CALGARY THIS 26th DAY OF SEPTEMBER 2011.


S. Barry, Presiding Officer

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

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