

**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:

***Richardson Terrence Walter Harold (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
J. Massey, MEMBER
E. Bruton, 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:	054006754
LOCATION ADDRESS:	315 Moraine RD NE
HEARING NUMBER:	66896
ASSESSMENT:	\$1,410,000

This complaint was heard on 12th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Board 6.

Appeared on behalf of the Complainant:

- Ms. C. Van Staden – Altus Group Limited

Appeared on behalf of the Respondent:

- Ms. – K. Cody - Assessor – City of Calgary
- Ms. – M. Hartmann – Assessor - City of Calgary

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] The following appeals were heard by the Board during the week of October 9 to 12, 2012 inclusive:

File No.	Decision No.	Roll No.	Address
68379	2063-2012-P	024008302	5225 – 8 ST NE
67719	2064-2012-P	054003991	2855T – 10 AV NE
66891	2065-2012-P	054006200	2820 – Centre AV NE
66893	2066-2012-P	054006606	404 Meridian RD NE
66896	2067-2012-P	054006754	315 Moraine RD NE
68215	2068-2012-P	054012505	2916 – 5 AV NE
66897	2069-2012-P	054012604	640 – 28 ST NE
67720	2070-2012-P	054013008	2915 – 10 AV NE
68038	2071-2012-P	054013107	3202 – 12 AV NE
68195	2085-2012-P	054014691	420 – 28 ST NE
68266	2086-2012-P	055124903	2020 Centre AV NE
66899	2087-2012-P	055162200	1880 Centre AV NE
68271	2088-2012-P	070033006	219 – 18 ST SE
68272	2089-2012-P	071043905	115 – 28 ST SE
66651	2090-2012-P	201311156	2820 – Centre AV NE

[3] **Common Issues:** All of the Board members named above attended all of the foregoing hearings throughout the week, and the Parties appearing before the Board during that time were represented by the same individuals noted above. Many of the issues, arguments, questions and responses were common throughout. At the request of the Parties and with the concurrence of the Board, those commonalities were carried forward from the hearing where they were first raised, to subsequent hearings without being restated in full in each hearing or in each written decision. The Parties selected file 68379 to be the “master” file upon which all common evidence and argument would be based and henceforth carried forward to subsequent files in turn.

[4] **S. 299. MGA:** In each of the complaints, the Complainant referenced information related to s. 299 of the Act. In each case – except one (the subject file 66896) – the Complainant confirmed that there was no claim that the Respondent failed to produce the requested disclosures.

[5] Prior to the commencement of the hearing the Complainant advised that Altus requested information from the City regarding this property earlier in 2012 under Section 299 of the Municipal Government Act. The Complainant argued that pages 5 and 46 of the Respondent's Brief R-1 were not provided to Altus under that request. The Complainant requested that they be struck from the Respondent's Brief R-1.

[6] The Respondent clarified that earlier in 2012, in her haste to provide the information requested by Altus regarding this property, she had inadvertently used the incorrect template displaying the information. The Respondent stated that she used "2012 Assessment Explanation Supplement – Preliminary Roll" instead of the "2012 Assessment Explanation Supplement" format. The information pertained to the subject at 315 Moraine RD NE, and one other property at 704 Meridian RD NE.

[7] After recessing to review the matter, the Board decided that the Respondent, while displaying well-intentioned resolve to provide the requested information in a timely manner, had technically breached Section 299 of the Municipal Government Act with respect to the Altus information request respecting this file. The Board excluded pages 5 and 46 from the Respondent's Brief R-1 from this hearing

Property Description:

[8] The subject is a 1.525 acre (Ac.) [66,416 square foot (SF)] parcel at 315 Moraine RD NE in the Meridian industrial area. It is zoned I-C (Industrial/Commercial) in the City's Land Use Bylaw. The site is essentially assessed as if vacant land, although a small 388 SF building described as a trailer-type structure is situated at the rear of the property. It is assessed using a variation of the Cost Approach to Value (land only) at \$925,000 per Ac. for a total assessment of \$1,410,000.

Issue:

[9] What is the correct assessment for the subject when its 2012 assessed value is tested against selected valuation approaches and/or techniques?

Complainant's Requested Value:

[10] The Complainant requested the assessment be reduced to \$1,216,000 based on land value at \$800,000 per Ac.

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

Complainant's Position

[11] The Complainant presented brief C-1 and clarified that the subject was assessed using the Cost Approach to Value, notwithstanding that the small 388 SF improvement onsite retained little relative value compared to the land. The Complainant argued that the vacant land value of \$925,000 per Ac. attributed to the subject under the Cost Approach was too high for NE Calgary, and it should have been assessed as land value only at \$800,000 per Ac.

[12] The Complainant provided a matrix of nine vacant land parcel sales – all from NW Calgary in the Royal Oak region and zoned I-B (Industrial/Business). She also included one vacant land sale of an I-C parcel from NW Calgary. She argued that based on analysis of these sales, and, making adjustments for time and location, the indicated value of \$725,000 per Ac. and a time-adjusted value of \$680,000 per Ac. from the sales, supported her request for \$800,000 per Ac. for the subject which is in NE Calgary. She clarified that there were no market sales of comparable vacant I-C land in NE Calgary, and alternately there were no sales of I-G land in NW Calgary. Therefore she argued that the best available market data, adjusted for location and related factors as required, suggests that I-B and I-C and I-G lands all generally sell for \$800,000 per AC.

[13] The Complainant provided and focused on the details of seven market sales of improved properties from NE, Central, and SE Calgary. The time-adjusted values of these seven sales ranged from \$322,456 to \$878,402 per Ac. She also provided an additional unadjusted 2009 sale of a vacant land I-C property at 7777 – 110 AV NW which sold for \$700,000 per Ac. She argued that a June 2011 sale of an 1,800 SF improved property at 9232 Horton Road – the closest to the subject of the seven sales, and which sold for a time-adjusted price of \$878,402 per Ac., also supports her request for \$800,000 per Ac. for the subject. She argued that based on this market sales information, the subject's land and building should be valued at \$1,220,000.

[14] The Complainant provided four improved I-C zoned assessment equity property comparables from NE Calgary, the characteristics of which she generally compared to the subject. She argued that two properties located at 540 and 740 Meridian RD NE respectively, have exposure to Barlow Trail but the subject does not. She clarified that these equity comparables are assessed only marginally higher than the subject, and this is inequitable.

[15] The Complainant suggested that while the City has used \$925,000 per Ac. for I-B and I-C zoned lands in a hierarchy of vacant land values, there is no evidence that these lands sell for more than I-G zoned lands. She also argued that I-B and I-C lands generally have direct exposure to major transportation corridors and therefore frequently sell for more than other lands – like the subject, which do not have the exposure. She argued that despite its I-C zoning, the subject has no direct exposure to Barlow Trail, given its internal location on Moraine RD NE.

[16] The Complainant advanced additional limited information regarding other recognized valuation methodologies such as "Income Approach to Value", and "Highest and Best Use Analysis" but generally relied on her market sales and assessment equity information as outlined heretofore. She requested that the assessment be reduced to \$1,210,000.

Respondent's Position

[17] The Respondent agreed that in previous years the subject had been assessed using a "land value only" technique, but for unknown reasons, was assessed as land and improvement using the Cost Approach to Value. She noted however that while using the Cost Approach, the City has applied minimal value to the 388 SF improvement. She concurred that the vast majority of the value of the site was in the land and not in the improvement on the land. She argued that the subject is assessed at \$925,000 per Ac., and for 1.525 Ac. this equates to an assessed value of \$1,410,000 (land and building).

[18] The Respondent argued that the Complainant relies on land values from NW Calgary which is not the same market as in NE Calgary where the subject is located. She also argued that it is unclear what locational adjustments the Complainant has applied to these sales to render them comparable to the NE Calgary market as the Complainant has alleged. Therefore she argued, the Board should not rely on the Complainant's comparative analogy and the resultant \$800,000 per Ac. the Complainant seeks to apply to the subject.

[19] The Respondent also clarified that while the Complainant has briefly referenced but is not relying on the Income Approach to Value methodology, in the current circumstances this technique does not identify the subject's correct market value.

[20] The Respondent provided and referenced excerpts of the City's Land Use Bylaw 1P2007 for I-B, I-C and I-G Zoning categories. She emphasized that I-B and I-C zonings are intended for properties within 200 metres of, and with exposure directly or otherwise, to major roads and expressways. Therefore these properties sell for more than I-G zoned properties which are generally located in internal subdivision roads and do not enjoy the same exposure. It is upon this hierarchy of zoning classification that the City maintains its valuation pyramid, with the I-B and I-C lands retaining the highest value at

\$925,000 per Ac. She clarified therefore, that because the subject is zoned I-C and is located in close proximity to Barlow Trail, it is assessed at \$925,000 per Ac. She provided a matrix of six market sales to support this value.

[21] The Respondent requested that the assessment be confirmed at \$1,410,000.

Board's Findings with Reasons:

[22] The Board finds that the parties concur that the subject should be assessed as land value only.

[23] The Board finds that it places little weight on the Complainant's conclusions of value for the subject based on using either the "Cost Approach to Value" or the "Income Approach to Value" since the inputs used are largely unsupported.

[24] The Board found that while there is no compelling market evidence before the Board as to the value of vacant land parcels in NE Calgary, there is also no compelling evidence clarifying the methodology of "locational" adjustments used by the Complainant to render market sales in NW Calgary, comparable to the vacant land market in NE Calgary where the subject is located.

[25] The Board found that there was no clear market evidence provided by either party that would cause the Board to alter the \$925,000 per Ac. vacant land value – or any other vacant land value, established by the City and used in a hierarchical manner in its model under the Mass Appraisal process for lands in NE Calgary.

[26] The Board finds that the subject is zoned Industrial – Commercial (I-C) pursuant to Land Use Bylaw 1P2007 and has been assessed at a typical \$925,000 per Ac. for such lands. However the subject does not, as anticipated by the "Purpose" and provisions of the I-C section of the Bylaw, have exposure directly or otherwise, to a major transportation artery or expressway (i.e. Barlow Trail). It is located on an internal subdivision road.

[27] The Board finds that the subject is therefore over-assessed and should be assessed using the Complainant's requested \$800,000 per Ac. which is more applicable to vacant land parcels without exposure to major road corridors and expressways – zoning notwithstanding. This has the effect of reducing the assessment to \$1,220,000.

Board's Decision:

[28] The assessment is reduced to \$1,220,000.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF November 2012.


K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure – Rebuttal
3. C-3	Complainant Disclosure – Rebuttal
4. R-1	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 Administrative Use Only

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	single-tenant industrial	Market value	Equity; sales; cost approach; income; vacant land value