

**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:**

***Marlborough Automotive Investments Ltd. (as represented by Altus Group Limited),  
COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***B. Horrocks, PRESIDING OFFICER  
K. Coolidge, MEMBER  
B. Bickford, 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:

<b>ROLL NUMBER:</b>	<b>054009709</b>
<b>LOCATION ADDRESS:</b>	<b>615 36 ST NE</b>
<b>HEARING NUMBER:</b>	<b>68498</b>
<b>ASSESSMENT:</b>	<b>\$4,840,000</b>

This complaint was heard on the 9th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4

Appeared on behalf of the Complainant:

- Mr. R. Worthington (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr.K Buckry (City of Calgary)

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

[1] There were no concerns with the Board as constituted.

[2] At the outset, it was agreed between the parties that Hearing Number 68496, Hearing Number 68498 and Hearing Number 68503 would be heard together, as they have common evidence and argument, and the decision from Hearing Number 68496 would be carried forward to the other two files. The merit hearing proceeded.

**Property Description:**

[3] The subject property is a 5.075 acre parcel located in the Marlborough Business Park in NE Calgary. The site is zoned I-C in the Land Use Bylaw and is improved with one industrial building that serves as an automotive dealership. The subject is assessed using the cost approach with the land assessed applying the 2012 City of Calgary Industrial Land Values while the improvements are assessed utilizing the Marshall and Swift Replacement cost. The subject assessment receives a +5% adjustment for Corner Lot influence.

**Issues:**

[4] The Assessment Review Board Complaint Form contained 14 Grounds for the Complaint. At the outset, the Complainant advised the outstanding issue was "the assessment of the subject property is in excess of its market value for assessment purposes" and more specifically "the base land rate of \$925,000 per acre for the first three acres of I-B and I-C zoned properties in NE Calgary is not supported in the market place."

**Complainant's Requested Value:** \$4,000,000 (Complaint Form)  
\$3,890,000 (Hearing)

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

**Issue:** What is the Base Land Rate for the first three acres of I-B and I-C zoned properties in NE Calgary, for assessment purposes?

[5] The Complainant's Disclosure is labelled C-1.

[6] The Complainant, at page 16, provided a table that contained details of "I-B and I-C sales in Calgary, 2009 through 2011 where the parcel is 3 acres in size or smaller". The table contained 8 sales, 7 of which are in the NW and 1 sale from the SE. The SE sale is included because it is considered to be in the NE quadrant of the City as it is north of the Bow River. All properties were zoned I-B with the exception of the sale of 7777 110 AV NW, which was zoned I-C. The property sizes range from 1.41 acres to 2.72 acres with time adjusted sale prices per acre (TASP) ranging from \$630,000 to \$871,560 and a median sale price of \$675,000 per acre. The Complainant submitted the median sale price supported its request for an assessed base land rate of \$675,000 per acre for the first three acres.

[7] The Complainant, at page 18, provided a table titled 2012 Industrial Land Values noting that for I-B and I-C zoned lands in NE Calgary, the assessed base land rate is "3 acres @ \$925,000 and the remainder at \$600,000." The Complainant submitted the rate for the remainder after 3 acres was not at issue.

[8] The Complainant, starting at page 27, provided excerpts from the Land Use Bylaw for lands zoned Industrial – Business f#h# (I-B f#h#) District noting at page 582 that the maximum building height for parcels designated Industrial – Business District is the number following the letter "h".

[9] The Complainant, starting at page 36, provided excerpts from the Land Use Bylaw for lands zoned Industrial – Commercial (I-C) District noting at page 600 that "The maximum floor area ratio (FAR) for buildings is 1.0" and "The maximum building height is 12.0 metres."

[10] The Respondent's Disclosure is labelled R-1.

[11] The Respondent, at page 10, provided a table with details on the one and only NE quadrant sale which is located at 2652 3 AV SE, noting the sale property was on a corner and had a shape influence. The TASP/acre was \$875,576. The Respondent adjusted the sale price -5% to account for the corner influence and +25% to account for the shape influence to arrive at an adjusted sale price of \$1,094,470/acre. The Respondent submitted that the City then selected a "more conservative" value of \$925,000/acre to be applied for assessment purposes.

[12] The Respondent, at page 20, provided a Sales Information Package for I-B Lots in the Royal Vista Business Park that had been prepared by the developer (City of Calgary). The Respondent noted there were Architectural and Development Guidelines, there was a Building Commitment requirement and a Design Committee Review process associated with the purchase of a lot. The Respondent submitted the more onerous development approval process would render the Complainant's 7 NW Sales not comparable to the subject(s).

[13] The Complainant, in rebuttal (C-3), provided additional details on the Respondent's sale comparable located at 2652 3 AV SE, noting the sale property had an FAR of 3 versus the standard maximum of 1.0 in the I-B zoned lands, and a maximum building height of 46 metres versus the standard maximum building height of 12 metres in the Bylaw. The Complainant submitted the sale property is not a typical I-B zoned property. In addition, the Realnet report for the property noted "This property was sold together with 2635 3 AV SE for a total consideration of \$72,000,000".

[14] The Complainant, in rebuttal (C-3), submitted CARB 1148/2012-P in support of its argument that the City's base land rate for the first 3 acres of I-B zoned land in the NE quadrant has "no foundation in fact", as no reliable sales were provided to support the assessed rate.

[15] The Complainant, in rebuttal (C-2) submitted excerpts from Case Law, in support of its argument that it had established a *prima facie* case, that the onus had shifted to the Respondent and the Respondent had failed through its evidence to support the assessment.

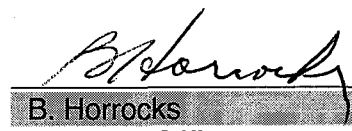
[16] The Board finds the Respondent's one and only sale in the NE does not support the base land rate of \$925,000/acre for the 1st 3 acres because it required significant adjustments for FAR, maximum allowable height, corner lot and shape influences.

[17] The Board further finds the Complainant's 7 NW sales with a median sale price of \$675,000/acre are the only remaining evidence to establish the value of the 1<sup>st</sup> 3 acres of I-B and I-C zoned land in the NE. As a result, the land value for the subject is reduced to \$3,270,000 which when combined with the improvement value of \$625,133 yields a market value of \$3,890,000 for assessment purposes.

**Board's Decision:**

[18] The 2012 assessment is reduced to \$3,890,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF NOVEMBER 2012.

  
B. Horrocks  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal
4. C3	Complainant 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.*

<b>Subject</b>	<b>Property type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-issue</b>
CARB	Industrial	Commercial	Cost Approach	Base land rate