

**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:

Brown Cottage & Clinic Inc (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER

A. Wong, MEMBER

I. Fraser, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 067227504

LOCATION ADDRESS: 831 7 AV SW

HEARING NUMBER: 63485

ASSESSMENT: \$1,330,000

This complaint was heard on the 31st day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *S. Sweeney-Cooper*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject property is a downtown office property located in the downtown east commercial core (DT2E) of SW Calgary. According to the information provided, the property contains one building that was constructed in 1902 with a net rentable area of 1,432 square feet (SF). The building is situated on a 0.13 acre or approximately 5,731 SF site and is zoned Direct Control and Public Park School and Recreational.

According to the information provided by the Respondent, the subject is assessed as though vacant land using the highest and best use principle. Therefore, the Respondent applied the Direct Sales Approach to value the land applying a rate of \$275.00 per SF with a 15% reduction to account for the fact that the subject property is in close proximity to Light Rail Transit (LRT).

Issues:

There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issue:

- 1) Inadequate allowance was made in the assessment for a further 20% reduction to the assessed land rate to account for Land Use Restrictions (LUR).

Complainant's Requested Value:

\$997,900 on the complaint form revised to \$1,024,416 at this hearing.

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

ISSUE 1: Inadequate allowance was made in the assessment for a further 20% reduction to the assessed land rate to account for Land Use Restrictions (LUR).

The Complainant provided a document entitled "Evidence Submission of the Complainant" that was entered as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- A photograph and a few overhead maps of the subject relative to its surrounding properties. The photograph indicated that the subject property is a small single story "house-like" structure surrounded by multi-story office buildings.
- A City of Calgary "2011 Downtown Influence Chart" that indicated various adjustments to base land rates that the City of Calgary assessment office would make to affected downtown properties. The Complainant highlighted that properties influenced by proximity to LRT, like the subject, would receive a 15% reduction to base land rates and properties influenced with LUR issues would receive a 20% reduction to base land rates.
- A copy of the Land Title Certificate of the subject property. The Complainant highlighted that the City of Calgary has registered a caveat on title registered on December 15, 1975 for the purpose of "Road Widening". This would support the Respondent's use of a 15% reduction to the assessment of the \$275 base land rate on the subject.
- A "My Property" report that indicated the Direct Control Bylaw number 12Z2008 land use designation affecting the subject property. The CARB noted that an existing development permit number DP2007-3997 exists on the subject. The report indicated that the permit would expire in 3 years if not acted upon.
- A copy of a portion of Bylaw 12Z2008 that indicated the various land use restrictions or development guidelines affecting the subject property. A copy of a portion of the "Public Park School and Recreational" development guidelines affecting the subject property.
- The Complainant argued that since there are significant development restrictions affecting the subject property in addition to the acknowledged LRT (road widening) restriction, the subject should be afforded a further 20% reduction to the assessed base land rate.

The Respondent provided a document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A copy of a portion of Bylaw 12Z2008, Land Use Amendment LOC2007-0052 that indicated the various land use restrictions or development guidelines affecting the subject property. The Respondent pointed out that the development potential of the subject is not significantly restricted by virtue of the fact that the subject property, through evidence of this bylaw's land use amendment enjoys a Floor Area Ratio (FAR) from a base of 12.5 to a maximum of 21.0.
- A letter dated November 17, 2009 from the City of Calgary Development & Buildings Approvals department indicating to representatives of the developer that the development permit DP2007-3997 would expire by November 12, 2012 if the development under this permit would not commence by that date.
- A copy of the report dated November 12, 2009 to the Calgary Planning Commission for the proposed development of new office and retail stores (Development Permit # DP2007-3997) that the subject property would be a part of. The Respondent highlighted

that the report indicated a building design that proposed a 20.55 FAR. The overall building height proposed was 100 metres, with a total of 22 floors. The proposed building also included three levels of underground parking.

- A copy of a facsimile sent from "Calgary West", a representative of the developer, dated June 8, 2011, indicated that the existing building is a vacant single family home that is scheduled for demolition.
- The Respondent argued that the existing development permit affecting the subject property is proof that the subject is not severely restricted in its development potential and therefore does not warrant a further 20% reduction to assessed base land rates.

The CARB finds the following with respect to this issue:

- That the Complainant failed to provide market evidence to support the requested 20% reduction to assessed base land rates.
- That the existing development permit provides good evidence that the subject property is not severely restricted in its development potential.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$1,330,000.

The Complainant failed to substantiate her requested assessment through argument or evidence. Given the evidence presented by both parties, the CARB finds that the subject property is equitably assessed with due consideration to its development potential.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF SEPTEMBER 2011.



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.*