

**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:

***Heritage Station Capital CORP. (as represented by Altus Group Ltd.), COMPLAINANT***

and

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

before:

***P. Petry, PRESIDING OFFICER  
Y. Nesry, BOARD MEMBER  
D. Steele, BOARD 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: 124064007**

**LOCATION ADDRESS: 8306 Horton Road S.W.**

**FILE NUMBER: 68465**

**ASSESSMENT: \$8,530,000**

This complaint was heard on 16<sup>th</sup> and 17<sup>th</sup> of October, 2012 in boardroom 3, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue N.E. Calgary, Alberta.

Appeared on behalf of the Complainant:

- M. Cameron and D. Genereux

Appeared on behalf of the Respondent:

- J. Lepine

### **Property Description and Background**

The subject property is a vacant land parcel of 200,865 square feet (sq. ft.) located at 8306 Horton Road with frontage along Macleod Trail S.W.. This parcel has a considerable slope and therefore the assessed value has been discounted by 30% for topographical reasons. It also has a corner location and therefore the assessed value reflects a 5% increase in value for this reason.

The subject property has been valued by the Assessor using the sales comparison method which in this case results in the application of a rate of \$100 per sq. ft. for the first 20,000 sq. ft. of land, plus \$60 per sq. ft. for the next 135,000 sq. ft., plus \$28 per sq. ft. for the remaining area of 45,865 sq. ft.. This formula results in an assessment of \$8,530,000 or \$42.46 per sq. ft.. The Complainant argues that there is no valid basis for the rate of \$100 per sq. ft. for the first 20,000 sq. ft. of area and a rate of \$60 per sq. ft. should be applied to all of the area up to 155,000 sq. ft. with the balance set at the rate of \$28 per sq. ft. as used by the Assessor.

### **Preliminary Issue**

- [1] At the outset of the hearing on October 16, 2012 the Respondent, City of Calgary (City) indicated that it has an objection to certain aspects of the Complainant's rebuttal evidence on the basis that the information is not in response to the Respondent's disclosure in this matter but rather is simply an attempt by the Complainant to introduce additional evidence to bolster its initial disclosure of September 4<sup>th</sup>, 2012. The Chair indicated that the CARB would deal with the Respondent's objection after the party's evidence in chief had been presented when the Board would have a better context for its consideration of the matter. This matter therefore, was raised again during the presentation of the Complainant's rebuttal evidence. The Respondent identified 3 groupings of pages within the rebuttal document which contained development and building permit information relating to 3 of the Complainant's sales. The Respondent argued that it had raised the fact that the Complainant had not provided any evidence to support its use of "effective aging" for existing improvements on the sold properties; the Complainant is now attempting to bring in that evidence through rebuttal. This evidence is not in response to the Respondent's disclosure and therefore the CARB should not allow the identified portions of the Complainant's rebuttal materials.
- [2] The Complainant argued that the Respondent had not only challenged the effective ages assigned by the Complainant but had also made its own determinations with respect to what it believed to be the correct age, which happens to be the original year of construction in each case. The Respondent has also indicated that to change the age of an improvement

from the original year of construction there must be significant renovation or upgrading and such work would be picked up by the assessment unit as a matter of course through their review of development and building permits taken out for the properties in question. The Respondent stated that the assessment unit records show no change from the original dates of construction for any of the sales brought forward by the Complainant. The Complainant argued that it is therefore entitled to respond in its rebuttal, firstly the Respondents use of the actual year of construction and secondly to its assertion that any significant renovation or redevelopment would have been picked up by the assessment unit.

### **Decision - Preliminary Issue**

- [3] The CARB carefully reviewed the positions of the parties respecting the evidence in question. The Respondent has, in its evidence at page 37, developed an alternate position concerning the age it believes should be used. The Respondent's evidence then show the application of different depreciation and extracts different values for each of the improvements leaving smaller land value residuals in each case.
- [4] The Respondent argued that the original ages of each building should be used as the City's systems would have pick-up any remodelling or significant upgrading if such changes were done. The City's records do not show any changes in these cases from the original construction dates.
- [5] Based on the Respondent's evidence with respect to the use of alternative ages for improvements and its argument that there have not been any major renovations or upgrading to these improvements; the CARB finds that the Complainant's evidence in question is acceptable rebuttal to the Respondent's case. The CARB therefore ruled that the Complainant's rebuttal materials should remain as disclosed without change.

### **Merit Issues:**

- [6] The CARB found the following issues with respect to the positions taken by the parties in this case:

**Issue 1: Is there sufficient support to determine and apply "effective ages" for the improvements located on the sold properties used by the Complainant to establish land values along MacLeod Trail S.W.?**

**Issue 2: What is the correct land rate(s) for vacant land along MacLeod Trail S.W. and for the subject parcel in particular?**

- [7] Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 17, 2011. The issues however, that the parties sought to have the Composite Assessment Review Board (CARB) address in the hearing on October 16<sup>th</sup> and 17<sup>th</sup>, 2012 are those referred to above, therefore the CARB has not addressed the other matters or issues initially raised by the Complainant.

**Complainant Requested Value:**

[8] The Complainant requests a reduction in the assessment to a value of \$7,930,000.

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

[9] The CARB decision is that there is insufficient supporting evidence to allow the CARB to place weight on the effective age of the improvements as applied by the Complainant to its sales.

[10] The CARB has not found sufficient reason to alter the land rate formula applied by the Assessor in reaching the assessment for the subject property.

**Summary of the Party's Positions**

**Complainant**

[11] While the Respondents provided two sales in support of the rate of \$100 per sq. ft. it has applied to the first 20,000 sq. ft. of the subject lands, the Complainant argued that these sales are not comparable. Both sales are for properties in the Commercial Corridor 1 (C-COR1) zone along 16<sup>th</sup> Avenue N.E. and are not representative of market values along MacLeod Trail in the S.W.. The Complainant brought forward correspondence suggesting that one of these sales was not a market sale as the property had not been exposed to the open market. The Complainant referred the Board to a decision, CARB 1397/2012-P and other CARB decisions which it believed to be in support of the Complainant's positions respecting the Respondent's sales. The Complainant on this basis urged the CARB to find that the Respondent has no support for the value of \$100 per sq. ft. it attaches to the first 20,000 sq. ft. of the subject property.

[12] The Complainant Introduced four sales occurring between November 2009 and July 2010 which it argued were comparable with the subject after adjusting for the value of improvements. Improvements were in existence on each of the four sold properties and therefore the Complainant's analysis is based on determining the value for each respective improvement and then subtracting that value from the sales price in order to separate the residual land value represented by the sale.

[13] A senior consultant with the Altus Group had reviewed the improvements on each of the sold properties to determine if there should be an adjustment to the original construction age based on past renovations and upgrading. Based on this review the ages of improvements for each comparable was adjusted from the actual age of construction to a new effective age as shown on the table below. The Complainant then applied Marshall and Swift costing system to the improvements using the effective ages it had determined to produce the relevant depreciation and end value for each building in question. In rebuttal the Complainant provided considerable documentation showing development and building permits relating to these properties. The Complainant argued that this information supports the effective ages as assigned.

[14] The Board has summarized the Complainant's Analysis and the resulting Land Values below:

Property Location	Site Area	Total Purchase Price	Value Of Improvement	Underlying Land Value	Rate Per Sq. Ft.
5720 MacLeod Trail SW	31,363	\$3,500,000	\$1,612,750	\$1,887,250	\$60.17
7212 MacLeod Trail SW	44,867	\$2,900,000	\$481,879	\$2,418,121	\$53.90
7425 MacLeod Trail SW	23,980	\$2,900,000	\$1,004,805	\$1,895,195	\$79.03
9110 MacLeod Trail SW	165,528	\$15,000,000	\$5,299,000	\$9,701,000	\$58.61
				Mean	<b>\$62.93</b>
				Median	<b>\$59.39</b>

[15] Based on this analysis the Complainant argued that the land rate for the first 155,000 sq. ft. of the subject land should be valued at the rate of \$60 per sq. ft. and the balance as per the City of Calgary rate of \$28 per sq. ft.. This results in a truncated value of \$7,930,000, a value which the Complainant states is the best estimate of the subject's market value as at July1, 2011.

### Respondent

[16] The Respondent introduced a document showing that the subject property sold for the sum of \$20,100,000 on November 4, 2008. The Complainant argued that this sale cannot carry any significant weight because the sale is dated and also because of the fact that Opus Developments had completed approvals and drawings and the sale was for the land and project ready to go.

[17] The Respondent brought forward two sales in the C-COR1 zone along 16<sup>th</sup> Avenue N.E. in support of the value of \$100 per sq. ft. assigned to the first 20,000 sq. ft. of the subject and other properties along both MacLeod Trail and 16<sup>th</sup> Avenue. The first sale was for a property at 505 16 Avenue N.E.. This property consists of 16,988 sq. ft. and sold on February 5<sup>th</sup>, 2010 for the sum of \$2,060,000 or \$108.27 per sq. ft.. It is this parcel that the Complainant challenges as not being an open market sale. The second sale brought forward by the Respondent is located at 210 16 Avenue N.E. and consists of 6,241 sq. ft.. This property sold on May 31<sup>st</sup>, 2011 for a sum of \$625,000 or \$100.14 per sq. ft.. The Respondent argued that these sales support the value of \$100 per sq. ft. applied to the first 20,000 sq. ft. in the case of the subject and many other similar properties.

[18] The Respondent argued that the CARB should not accept the Complainant's analysis of the four sales along Macleod Trail as the Complainant has not provided any support for its analysis. In particular the Respondent's concern was that the Complainant provided limited detail in terms of the renovations or redevelopment which may have lead to the assignment of effective ages nor with respect to the method used in arriving at these age values. The Respondent argued that the rebuttal information that falls within the relevant time period appears to show that work done on these properties is more in the nature of upkeep and tenant improvements which would not have a bearing on effective age. The Respondent claimed that the assessment unit records do not show any change from the original dates of construction and would do so if development or building permits were completed for major renovation, upgrading or redevelopment of the type that would result in assignment of an effective age for any of the

properties in question.

[19] The Respondent presented its own calculations using Marshall and Swift tables for depreciation based on the original year of construction. The costs attributable to the improvements on this basis were then subtracted from the selling prices leaving different residual land values than those arrived at by the Complainant. These values were then compared to those arrived at by the Complainant using the effective age it had selected. This information is summarized below:

Property Location	Effective Age	Complainant's Land Value	Actual Age	Respondent's Land Value
5720 MacLeod Trail SW	29	\$60.17	34	\$73.60
7212 MacLeod Trail SW	20	\$53.90	37	\$64.64
7425 MacLeod Trail SW	25	\$79.03	44	\$104.17**
9110 MacLeod Trail SW	15	\$58.61	22	\$66.23

\*\* correct to 70% depreciation

[20] The Respondent indicated that if depreciation is understated through inaccurate assignments of age, then the value of the improvement will be higher and the residual land value will be lower as is the cases with the Complainant's analysis.

[21] The Respondent further argued that the Complainant has led no evidence as to what rate should apply to the portion of the subject lands beyond the first \$155,000 sq. ft. The Respondent has applied \$28 per sq. ft. to this portion of the subject. However, one cannot accept only one part or two parts of an equation.

[22] The Respondent in its final argument stated that even if the \$60 per sq. ft. rate were to be accepted it should be applied across the board and also should be subject to the net corner and topography adjustments of -25%. This would yield a value of approximately \$45 per sq. ft. while the subject is only assessed at \$42.46 per sq. ft.

### **Findings and Reasons for the Board's Decision:**

#### **Issue 1: Effective Age of Improvements on Sold Properties**

[23] The Complainant has identified and analyzed four sales from which it derives a market land value of \$60 per sq. ft.. The CARB can generally accept the method employed in the Complainant's analysis to determine the residual land values from these four sales. There are, however aspects of this analysis which are neither transparent nor supported and therefore the results are questionable.

[24] The most significant element of the analysis lacking in transparency and sufficient supporting evidence to allow the CARB to place confidence in the result, is the use of "effective ages" for the improvements on each of the sold properties. The average reduction in age for the four properties in the analysis is 12 years. These changes in age have the effect of increasing the expected life of the improvement and decreasing the amount of depreciation. These changes have a direct impact on the values placed on the improvements in each case and therefore must be fully justified. The CARB finds that it is not persuaded to accept the Complainant's effective age for the improvements in question for the following reasons:

- The senior consultant who determined the effective ages for each property was not named nor was this person available for questioning by the Respondent or the CARB.
- There was no evidence as to what guidelines were used to accurately adjust age based on inspections and different forms of upgrading or renovation. The Board was not informed as to the factors considered, weights assigned to one form of upgrade or renovation compared to another and how the final age was determined.
- The Complainant's rebuttal evidence included considerable documentation with respect to development permits and building permits for three of the four sold properties. This information was in its raw form and had not been analyzed. Some of the data was post-facto the sale dates, the status of the work in many cases was unclear and project values were not apparent in each case. While the CARB did not attempt to do its own analysis of this documentation it appeared that the majority of the work described under the various permits was related to upkeep, tenant improvements such as partitioning and change of business, signage and other similar projects. Even if the works covered by the permitting were substantial such as new roofs, replacement of mechanical or electrical components or remodelling and refinishing the exterior, the CARB would still not have confidence, based on the evidence before us, in the process of determining the effective ages. Assignments of effective ages typically would be based on substantial rehabilitative works and in accordance with some form of guidelines to ensure a measure of consistency in application.
- In the Case of the sale at 9110 MacLeod Trail S.W. the age has been changed from 22 year to 15 years, however no depreciation was applied leaving the end value for the improvement being overstated.

[25] For all of the forgoing reasons the CARB does not accept the effective ages that have been assigned to the improvements on the four sold properties. The resulting residual land values therefore, are also not acceptable for the same reasons.

## Issue 2: Land Rate

[26] The Complainant effectively challenged the relevance of the Respondent's two sales along 16<sup>th</sup> Avenue N.E.. One of these sales had not been exposed to the open market according to the evidence of the Complainant and the Respondent did not offer any evidence to the contrary in response. The CARB considered the one remaining sale and agrees with a number of other CARB decisions, which have concluded that one sale is an insufficient basis for the determination of a land rate and there is no evidence to show that sales along 16<sup>th</sup> Avenue N.E. are representative of market values along MacLeod Trail in the S.W.. The CARB therefore places no weight on these sales as market value indicators for the subject property.

[27] While the CARB has already set out its findings with respect to the question of the use of effective age as determined by the Complainant, these sales nevertheless were considered based on the unadjusted age of the improvements. The Respondent provided evidence which, determined the Marshall and Swift values of the improvements based on year of construction and subtracted these from the respective sales prices. These values are set out in the right-hand column of the table under paragraph 19). The CARB further adjusted these values by using the corner and/or topographical adjustments to equate them to the reduction or increase that has been applied to the subject. The topographical adjustment, however, was not made to the property at 5720 MacLeod Trail as it has similar topographical features to those of the subject and the sale of this property would have already reflected any discount that should be

recognized. After applying these adjustments the CARB determined that the average residual land rate on this basis is approximately \$60 per sq. ft. This rate is well above the overall assessed rate for the subject property of \$42.46.

[28] The CARB agrees with the Respondent that it is incorrect to make a change to one aspect of a formula driven valuation without a review of the entire formula. In this case the Complainant has reviewed only the rate which it wishes to have applied to the first 155,000 sq. ft., that is a rate of \$60 per sq. ft.. There is no evidence what so ever that would support leaving in place the \$28 per sq. ft. that has been applied to the last 45,865 sq. ft. of the subject lands.

[29] Both parties indicated that the property at 9110 MacLeod Trail S.W. may be the better comparable given that its size of 165,528 sq. ft. is similar to the subject with 200,865 sq. ft. Without applying the effective age determined by the Complainant but making the other adjustments, the residual land value exceeds the overall assessed rate of the subject by a significant margin.

[30] The CARB did give some consideration to the March 2008 sale of the subject. However given the fact that the sale also included certain development approvals, drawings and perhaps other preconstruction costs, the CARB placed little weight on the sale.

[31] The CARB carefully considered the CARB decisions brought forward by the Complainant, that have accepted the same sales evidence as introduced in this complaint. The Board note that in three of these cases the CARB states that it has some reservation respecting the Complainants determination of the residual land values. It also appears that other factors such as equity and income were aspects of the considerations in play. In the case at hand the Respondent has raised a number of challenges to the effective age determinations of the Complainant, which may not have been the case in the other referenced decisions. In any case the CARB is not bound by its previous decisions and the findings and decisions in this case arise directly from the evidence before us.

[32] For all of the above reasons the CARB has decided that the evidence is not sufficiently compelling to overturn the basis for the present assessment.

### **Summary**

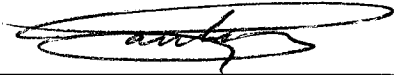
[33] The Complainant's position was that the Respondent has applied an incorrect land rate of \$100 per sq. ft. to the first 20,000 sq. ft. of the subject property and the sales it has used to support this rate are not valid or are not comparable. The Complainant introduced four sales closer to the subject, all of which were improved and required the segregation of the value of the improvement in order to determine the residual land value. The CARB found that it could not adopt the Complainant's effective age adjustments without supporting evidence an understanding of how these new age values were determined. The CARB also concluded that the Complainant's proposal to change one component of a three part valuation formula that had been applied in reaching the assessment has no validity. There was no evidence to show that a new two part formula would be capable of producing market value for the subject and other similar properties. While the Complainant presented an effective challenge with respect to the sales, the Respondent relied upon in defence of the assessment, this is not sufficient where there is inadequate evidence to support the alternate value recommended by the Complainant.

[34] The CARB decision in this matter is to confirm the assessment of \$8,530,000.



It is so ordered.

DATED AT THE CITY OF CALGARY THIS 6<sup>th</sup> DAY OF November 2012.



Paul Petry, 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. C2	Complainant Rebuttal
3. C3	CARB Decision 1397/2012-P
4. R1	Respondent Disclosure

**An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:**

**470(1)** *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.*

**470(2)** *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).

**470(3)** 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

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Non-Residential	Commercial	Vacant Land	Land Rate	Effective Aging