

**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:

***Libtel Investments Ltd., Aviva Holdings Ltd., (as represented by Altus Group),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***T. Hudson, PRESIDING OFFICER
Y. Nesry, MEMBER
R. Kodak, 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: 048054118

LOCATION ADDRESS: 1904 19 ST NE

HEARING NUMBER: 62984

ASSESSMENT: \$1,350,000

This complaint was heard on the 8th day of September, 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:

- K. Fong
- A. Iazard

Appeared on behalf of the Respondent:

- S. Turner
- S. Powell

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

There were no procedural or jurisdictional matters raised by the parties.

Property Description:

The subject property is a 0.489 acre parcel of land, improved with a 2,100 square foot retail gas bar and convenience store, located in the Vista Heights community. The subject property is currently assessed based on land value as vacant at \$1, 350,000.

Issues:

The Complainant identified that the assessment amount exceeds market value and is not equitable when compared with the assessments of similar properties. The Complainant argues that the current vacant land value based assessment was prepared in the absence of any Highest and Best Use Analysis, and therefore the subject should be valued based on its current use, and using the capitalized income approach.

Complainant's Requested Value: \$630,000

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

The Board finds that the subject property should be assessed based on its current use, and using the capitalized income approach to value.

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

The Board finds that the best market evidence supports a reduced assessment for the subject property, based on the income approach to value, and using typical rates.

The Complainant argued that the vacant land value based assessment exceeded market value for the property and contravened Section 289 of the MGA. The referenced section of the MGA does state that the characteristics and physical condition of the property must be reflected in the assessment. Further, the Respondent provided no evidence upon which to base a conclusion that the current use of the subject property is not the highest and best use, and therefore the method used by the Respondent to assess the property is not equitable.

The Respondent argued that when an improved property is incapable of producing a capitalized income value which exceeds the established land value, then the land value represents the market value of the property. However, the Respondent provided no sales evidence in support of the C-COR3 vacant land rates used to prepare the assessment of the subject property.

Board's Decision: The assessment is reduced to \$630,000.

DATED AT THE CITY OF CALGARY THIS 06 DAY OF October 2011.



T. B. Hudson
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.*

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<i>Decision No.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Stand alone	Sales Approach	Land value