

**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:

**1239466 Alberta Ltd.
(as represented by Altus Group Limited), COMPLAINANT**

and

The City of Calgary, RESPONDENT

before:

**J. Dawson, PRESIDING OFFICER
D. Pollard, MEMBER
J. Lam, MEMBER**

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] 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:	090042508
LOCATION ADDRESS:	4400 Macleod Trail SW
LEGAL DESCRIPTION:	Plan 9212019; Block 2; Lot 40A
HEARING NUMBER:	67689
ASSESSMENT:	\$ 5,680,000

- [1] This complaint was heard on the 31 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 2.
- [2] Appeared on behalf of the Complainant:
- B. Neeson Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- E. D'Altorio Assessor, City of Calgary
- [4] The following individual was present for all or part of the proceedings and did not appear on behalf of a party:
- G. Lane

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

Preliminary Issue 1 - Evidence

- [5] The Complainant and the Respondent requested to bring forward all evidence, comments, questions, and answers articulated during previous hearings, and heard before this Board to this hearing: CARB 2319/2012-P.
- [6] **The Board determined, from the decision CARB 2319/2012-P, that all evidence, comments, questions, and answers, is to be brought forward and incorporated just as if it were presented during this hearing.**
- [7] No additional procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Property Description:

- [8] The subject – 4400 Macleod Trail SW, is a vacant land site located along Macleod Trail at 43 Avenue SW in the community of Manchester.
- [9] The Respondent prepared the assessment on the direct comparison approach. The site area is 81,487 square feet and has a land use designation of Commercial – Corridor 3 [C-COR3].

Matters and Issues:

- [10] The Complainant identified two matters on the complaint form:

Matter #3 - an assessment amount

Matter #4 - an assessment class

- [11] Following the hearing, the Board met and discerned that this is the relevant question which needed to be answered within this decision:

1. *What is the correct value of vacant commercial land on Macleod Trail?*

Complainant's Requested Value:

On complaint form:	\$2,410,000
Within disclosure:	\$4,889,220
Confirmed at hearing:	\$4,880,000

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount*****Question 1 What is the correct value of vacant commercial land on Macleod Trail?*****Complainant's position***

- [12] The Complainant argued that the base land rate of \$100 per square foot for property along Macleod Trail is in excess of market value. There are no vacant land sales along Macleod Trail during the valuation period; therefore, improved property sales were analysed to derive a value. (C1 p. 3)
- [13] The Complainant reviewed the subject details including; 2012 Property Assessment Notice, Property Assessment Summary Report, 2012 Assessment Explanation Supplement – Commercial Land and Cost, maps, and photos. (C1 pp. 10-18)
- [14] The Complainant provided Matters Relating to Assessment and Taxation Regulation [MRAT] with highlights of portions to explain their position on the proper method of valuing property under mass appraisal. (C1 pp. 19-30 and C2 pp. 4-15)
- [15] The Complainant included analysis of how they established their requested land value; '2012 Commercial Sales Summary – Macleod Trail C-COR'. In a separate document are the details of the sales analysed. (C1 p. 32 – labelled 61 and C2 pp. 25-78)
- [16] The Complainant outlined their requested assessment using the direct comparison approach with a value of \$60 per square foot for the entire property. (C1 p. 34 – labelled 98)
- [17] The Complainant provided information regarding highest and best use, excerpts from 'Workshop 158 – Highest and Best Use Student Reference Manual' © 2010 International Association of Assessing Officers. (C2 pp. 17-22)
- [18] The Complainant drew the Board's attention to four previous Board decisions; CARB 0830/2012-P, CARB 0874/2012-P, CARB 0852/2012-P, CARB 0853/2012-P – of similar

circumstances. In those cases, the Board found that the value of \$60 per square foot is correct and reduced the assessments. (C2 pp. 79-112)

Respondent's position

- [19] The Respondent indicated that the subject is assessed using the residual land rate method to establish vacant land rates. The values used are consistent with *C-COR* land assessed values along Macleod Trail at \$100 per square foot. (R1 p. 3)
- [20] The Respondent summarised the Retail Property Valuation approaches taken by the Respondent for all retail properties within the municipality. (R1 p. 4)
- [21] The Respondent reviewed the subject property including; photo, 2012 Property Assessment Notice, and 2012 Assessment Explanation Supplement – Commercial Land and Cost report. (R1 pp. 6-8)
- [22] The Respondent included information with a heading '*Complaint's Comparables*', it appears to be information regarding the use of effective age within a Marshall & Swift calculation on the cost approach. The section concludes with a sheet labelled '*Altus Comps*' that shows sales along Macleod Trail with two columns – the differences being; '*Altus effective age*', and '*Using effective at actual age*'. (R1 pp. 10-22)
- [23] The Respondent provided equity comparables to show the equitable treatment of similar properties. (R1 pp. 24)
- [24] The Respondent presented four city-wide sales between February 2009 and May 2011. The chart below is replicated from the Respondent to summarise the analysis of the Respondent. Column added to place value on influences. (R1 pp. 27-37)

Address	Land Use Designation	Land Area – Square Feet	Purchase Price	Transaction Date	Time Adjusted Purchase Price	Time Adjusted Land Value / square foot	Influence	Land Value / square foot
505 16 Avenue NE	C-COR1	16,988	\$2,060,000	Feb. 5, 2010	\$1,931,250	\$113.68	Corner -5%	\$108.27
4504 17 Ave SE	C-COR2	19,602	\$954,000	Mar. 6, 2010	\$906,300	\$46.24	Corner -5% Contamination 30%	\$62.91
210 16 Avenue NE	C-COR1	6,241	\$625,000	May 31, 2011	\$625,000	\$100.14	-	\$100.14
4523 Monterey Avenue NW	C-COR2	6,159	\$364,000	Oct. 12, 2010	\$364,000	\$59.10	-	\$59.10

- [25] The Respondent provided details of a sale that occurred after the valuation date that supports the trend reported from *C-COR* sales analysis. The transaction on March 1, 2012 derives a value of approximately \$116.82 per square foot. (R1 pp. 38-43)

Address	Land Use Designation	Land Area – Square Feet	Purchase Price	Transaction Date	Time Adjusted Purchase Price	Time Adjusted Land Value / square foot	Influence	Land Value / square foot
6550 Macleod Trail SW	C-R3	36,380	\$4,250,000	Mar. 1, 2012	\$4,250,000	\$116.82	-	\$116.82

- [26] The Respondent provided a map entitled '2010 Average Daily (24hr) Weekday Traffic Volumes' (R1 p. 44)
- [27] The Respondent enclosed several pages of definitions, policy, regulation, and *the Act*. (R1 pp. 47-59)
- [28] The Respondent addressed change in assessed value from a year-to-year basis in a one-page report. (C1 p. 61)
- [29] The Respondent included their policy on valuing improved properties as if vacant to maintain equity; *"This methodology ensures that equitable assessments between properties is maintained."* (R1 pp. 63-87)
- [30] The Respondent provided their policy on performing a highest and best use analysis; *"It is the opinion of the ABU (Assessment Business Unit or Respondent) that a highest and best use analysis does not have to adhere to such rigorous standards as is applied for appraisal purposes."* (R1 pp. 88-100)
- [31] The Respondent concluded that the assessment is correct, fair and equitable and requested that the Board confirm the assessment. (R1 p. 51)
- [32] The Respondent referred to, during closing summation, six previous Board decisions; CARB 1469/2012-P, CARB 1324/2012-P, CARB 1474/2012-P, CARB 1457/2012-P, CARB 1977/2012-P, and CARB 1978/2012-P – of similar circumstances. In those cases, the Board found that the value of \$100 per square foot is correct and confirmed the assessments.

Complainant's rebuttal position

- [33] The Complainant presented a previous Board decision; CARB 1397/2012-P of similar circumstance. In that case, the Board found that the value of \$60 per square foot is correct and reduced the assessment. (C3 pp. 6-12)
- [34] The Complainant disclosed rebuttal of 113 pages with no presentation. (C4)

Board's findings

- [35] The Board considered the 2012 Commercial Land Values chart provided by the Respondent. Within the evidence; there is no indication to suggest the subject is contaminated, there is no evidence that the comparable located at 4504 17 Avenue SE is contaminated, there is no evidence that a contaminated property is worth 30% less than a non-contaminated property, and there is no evidence that a corner lot is worth 5% more than a non-corner lot. The Board also has no evidence to demonstrate that properties in northwest, northeast and southeast Calgary are similar in value to properties in southwest Calgary.
- [36] The Respondent concluded in their sales chart that Macleod Trail submarkets of MT2, MT3, MT4 and MT5 are valued at \$100 per square foot for the first 20,000 square feet, \$60 per square foot for 20,001 to 155,000 square feet, and \$28 per square foot for remainder. The Board is unable to see the rationale for the three ranges of value from the evidence provided – the sales are for property under 20,000 square feet – no evidence indicates a break point over

20,000 square feet. However, the Complainant provided no evidence or argument against the assessed values set by the Respondent for commercial land greater than 20,000 square feet.

[37] The Board did not consider the post facto sale presented by the Respondent because: The sale occurred March 1, 2012 – 8 months post facto with no time adjustment provided. The property has a different land use designation – C-R3 (Commercial – Regional 3) with no analysis on their differences. There is an unanswered question whether a building is or is not included with the sale as the description says vacant land; however, the picture shows a nearly completed building. An adjacent landowner who has an ongoing business relationship with the vendor purchased the property. There is no indication that the sale had exposure to the open market. There is no indication the sale was at a market value. The property has the traffic influences from two major roadways – dissimilar to the subject, with no adjustment.

[38] The Board considered six sales comparables in evidence by both parties:

1. **505 16 Avenue NE** – the Board accepts this sale without the corner adjustment because there is no evidence to demonstrate that a corner lot is worth 5% more than a non-corner lot.
2. **210 16 Avenue NE** – the Board accepts this sale as presented.
3. **5720 Macleod Trail SW** – the Board accepts this sale and relies on the calculations provided by the Complainant (adjusted for GST).
4. **7212 Macleod Trail SE** – the Board accepts this sale and relies on the calculations provided by the Complainant (adjusted for GST).
5. **7425 Macleod Trail SW** – the Board accepts this sale and relies on the calculations provided by the Complainant (adjusted for GST).
6. **9110 Macleod Trail SW** – the Board accepts this sale and relies on the calculations provided by the Complainant (adjusted for GST).

[39] As there is agreement, the Board accepts the assessed value of \$60 per square foot value for the 20,001 through 155,000 square foot range and \$28 per square foot value for areas 155,001 square feet and greater. Using reverse math calculations, the Board is able to find the correct value for the first 20,000 square feet of the commercial land comparables.

[40] In the chart below the Board finds, in this case, that the value for commercial land along Macleod Trail is \$80 per square foot for the first 20,000 square feet. The Board chose to round down to the nearest ten dollars.

Address	Time Adjusted Purchase Price	Land Area – Square Feet	Marshall & Swift Costing Improvement Value – adjusted for GST	Underlying Land Value	155,001 square feet or greater at \$28.00	20,001 to 155,000 square feet at \$60.00	1st 20,000 square feet at \$80.00	Land Value / square foot 1st 20,000
210 16 Avenue NE	\$625,000	6,241	-	\$625,000	-	-	\$625,000	\$100.14
505 16 Avenue NE	\$1,931,250	16,988	-	\$1,931,250	-	-	\$1,931,250	\$113.68
5720 Macleod Trail SW	\$3,500,000	31,363	\$1,535,952	\$1,964,048	-	\$681,780	\$1,282,268	\$64.11
7212 Macleod Trail SE	\$2,900,000	44,866	\$458,932	\$2,441,068	-	\$1,491,960	\$949,108	\$47.46
7425 Macleod Trail SW	\$2,900,000	23,980	\$956,957	\$1,943,043	-	\$238,800	\$1,704,243	\$85.21
9110 Macleod Trail SW	\$15,000,000	165,528	\$5,046,667	\$9,953,333	\$294,784	\$8,100,000	\$1,558,549	\$77.93
Median		27,672						\$81.57
Mean		48,161						\$81.42

- [41] The Board finds, for the subject's 26,650 square feet, that the value for the first 20,000 square feet is \$80 per square foot, and for the remaining 6,650 square feet, the value is \$60 per square foot.

Address	Purchase Price	Land Area – Square Feet	Marshall & Swift Costing Improvement Value	Underlying Land Value	155,001 square feet or greater at \$28.00	20,001 to 155,000 square feet at \$60.00	1st 20,000 square feet at \$80.00	Land Value / square foot 1st 20,000
Subject		81,487	\$0	\$5,289,220	\$0	\$3,689,220	\$1,600,000	\$80.00


Matter #4 - an assessment class

- [42] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

- [43] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a truncated value of \$5,280,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF December 2012.


J. Dawson
 Presiding Officer

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

NO.	ITEM
1.	C1 Complainant Disclosure – 55 pages (not sequential)
2.	C2 Complainant Additional Disclosure – 133 pages
3.	R1 Respondent Disclosure – 102 pages
4.	C3 Complainant Rebuttal Document – 261 pages
5.	C4 Complainant Additional Rebuttal Document – 113 pages

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.*

Municipal Government Board use only: Decision Identifier Codes

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Vacant Land	Sales Approach	Land Value