

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against these property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 [*the Act*].

between:

***R & N Properties Ltd.
One Extreme 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***

These are complaints to the Calgary Composite Assessment Review Board [CARB] in respect of a property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	200163400	200163418
LOCATION ADDRESS:	3420 17 Avenue SE	1720 Radisson Drive SE
LEGAL DESCRIPTION:	Plan 0212474; Block B; Lot 3	Plan 0212474; Block B; Lot 4
HEARING NUMBER:	68469	68470
ASSESSMENT:	\$ 1,550,000	\$ 1,360,000

- [1] These complaints were heard on the 29 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
 - G. Lane Controller
- [3] Appeared on behalf of the Respondent:
- E. D'Altorio Assessor, City of Calgary
 - B. Thompson Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

Preliminary Issue 1 - Common Hearing:

- [4] The Complainant requested that two properties adjacent to each other with identical ownership and issues before the Board be heard in one hearing. The Respondent supported the Complainant's request.
- [5] **The Board agreed to hear the two roll numbers listed above as a single hearing before the Board.**
- [6] No additional preliminary, procedural, or jurisdictional matters were identified.

SECTION B: Issues of Merit

Property Description:

ROLL NUMBER: 200163400

- [7] Constructed in 1971, the subject – 3420 17 Avenue SE, is a single-storey retail building located along 17 Avenue just east of Radisson Drive SE in the community of Albert Park / Radisson Heights.
- [8] The Respondent prepared the assessment on the direct comparison approach showing no value for the 7,837 square foot improvement graded as a 'B+' quality. The site area of 32,599 square feet is valued on its land value only as if vacant.

ROLL NUMBER: 200163418

- [9] Constructed in 1971, the subject – 1720 Radisson Drive SE, is a single-storey retail building located along Radisson Drive just north of 17 Avenue SE in the community of Albert Park / Radisson Heights.
- [10] The Respondent prepared the assessment on the direct comparison approach showing no

value for the 6,700 square foot improvement graded as a 'B-' quality. The site area of 25,834 square feet is valued on its land value only as if vacant.

Matters and Issues:

[11] The Complainant identified two matters on the complaint forms:

Matter #3 - an assessment amount
Matter #4 - an assessment class

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

1. *How should the subject site be assessed? 'Direct Comparison Approach' or 'Income Approach'?*

Complainant's Requested Value:

ROLL NUMBER:	200163400	200163418
On complaint form:	\$1,210,000	\$1,040,000
Within disclosure:	\$1,210,000	\$1,040,000

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

Matter #3 - an assessment amount

Question 1 ***How should the subject site be assessed? 'Direct Comparison Approach' or 'Income Approach'?***

Complainant's position

- [13] The Complainant argued that the subject properties are retail properties used to generate an income and should be equitably assessed using the income approach at a market rental value of \$14 per square foot. (C1 pp. 3-5 and C2 pp. 3-5)
- [14] The Complainant cited numerous court and Board decisions to suggest their methodology is supported by the Board and courts throughout Canada and the United States of America. (C1 pp. 16-17 and C2 pp. 16-17)
- [15] The Complainant reviewed the subject's details including; 2012 Property Assessment Notices, Property Assessment Summary Reports, 2012 Municipal Retail Assessment Summaries, 2012 Assessment Explanation Supplements, maps, and photos. (C1 pp. 11-21 and C2 pp. 11-22)
- [16] The Complainant outlined their requested assessments showing the inputs of market rental rate, vacancy allowance, vacant space shortfall allowance, non-recoverable allowance, and

capitalisation rate. (C1 pp. 23, 78-87; C2 pp. 24, and 79-88)

Respondent's position

- [17] The Respondent indicated that the subjects are assessed on the residual land rate method to establish vacant land rates. The rates used are consistent with Commercial – Corridor [*C-COR*] land rates throughout the city and the \$60 per square foot rate is fair and equitable. (R1 p. 3 and R2 p. 3)
- [18] The Respondent summarised the Retail Property Valuation approaches taken by the Respondent for all retail properties within the municipality. (R1 p. 4 and R2 p. 4)
- [19] The Respondent reviewed the subject properties including; 2012 Property Assessment Notices, 2012 Assessment Explanation Supplement – Commercial Land and Cost reports, and photo. (R1 pp. 6-8 and R2 pp. 6-8)
- [20] The Respondent prepared a table to summarise the comparables presented by the Complainant. The five comparables consisted of four properties that are not freestanding retail locations but rather are located within community or neighbourhood centres and as a result were assessed on the income approach. One comparable is a freestanding location that is comparable and assessed using the direct comparison approach. (R1 p. 11 and R2 p. 11)
- [21] The Respondent provided equity comparables to show the equitable treatment of similar properties. (R1 p. 13 and R2 p. 13)
- [22] The Respondent presented their 2012 Commercial Land Values table to show how the Respondent developed land rates for all commercial properties within the municipality. The *C-COR* rates were developed based on two sales: 1) one near the subject at 4504 17 Avenue SE that is adjusted for contamination and corner lot influence; 2) the second sale is in a different area of the city at 4523 Monterey Avenue NW. The report concludes for *C-COR* properties that for the first 20,000 square feet \$60 per square foot is the value, for 20,001 to 155,000 square feet \$28 per square foot is the value and areas greater than 155,000 square feet \$8 per square foot. (R1 p. 14 and R2 p. 14)
- [23] The Respondent reviewed their policy on valuing improved properties as if vacant to maintain equity; *"This methodology ensures that equitable assessments between properties is maintained."* (R1 pp. 33-57 and R2 pp. 33-57)
- [24] The Respondent explained 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. 58-70 and R2 pp. 58-70)
- [25] The Respondent concluded that the assessment is correct, fair and equitable and requested that the Board confirm the assessment. (R1 p. 16 and R2 p. 16)

Complainant's rebuttal position

- [26] The Complainant provided information regarding the three equity comparables presented by the

Respondent. The Complainant showed that two of the comparables are gas station convenience stores with carwashes and that all freestanding gas stations regardless of their amenities are compared to each other and not freestanding retail properties. (C3 pp. 3-13)

- [27] The Complainant provided two previous Board decisions (one on the subject), showing that the Board has determined that the income approach is appropriate, fair and equitable. (C3 pp. 16-27)

Board's findings

- [28] The Complainant cited numerous court and Board decisions to suggest their methodology is supported by the Board and courts throughout Canada and the United States of America. The Board, in this case, cannot rely on any of these decisions because the Complainant failed to provide the referenced material and show the relevance of these decisions to this case. Many of these referenced decisions were discussed in a previous Board decision; *CARB 2020/2012-P*.
- [29] The Board considered the 2012 Commercial Land Values chart presented by the Respondent. No details have been provided on either sale. The Board is unable to assess the comparability of these properties without details. Furthermore, of the information the Board has in evidence; there is no indication to suggest the subject is contaminated like the comparable located at 4504 17 Avenue SE; there is no evidence to demonstrate that a contaminated property is worth 30% less than a non-contaminated property, and there is no evidence to demonstrate that a corner lot is worth 5% more than a non-corner lot. The Board also has no evidence to demonstrate that a property in northwest Calgary is similar to a property in southeast Calgary.
- [30] The Board finds any of the three valuation approaches are acceptable; however, the valuation method that produces the most reliable result should be selected. Without evidence to support the direct comparison approach the Board finds that the income approach is acceptable.
- [31] The Respondent did not provide an income approach, and did not refute the income approach provided by the Complainant. The Board finds the income approach provided by the Complainant acceptable.

Matter #4 - an assessment class

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

Board's Decision:

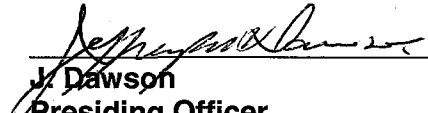
ROLL NUMBER: 200163400

- [33] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a value of \$1,210,000 which reflects market value and is fair and equitable.

ROLL NUMBER: 200163418

- [34] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a value of \$1,040,000 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 Roll # 200163400 – 180 pages
2.	C2 Complainant Disclosure Roll # 200163418 – 186 pages
3.	R1 Respondent Disclosure Roll # 200163400 – 81 pages
4.	R2 Respondent Disclosure Roll # 200163418 – 81 pages
5.	C3 Complainant Common Rebuttal – 28 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	Retail	Freestanding	Sales Approach	Land Value
			Income Approach	Market Rent