

**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:**

***Telus Communications Inc.*  
(as represented by *Colliers International Realty Advisors Inc.*), COMPLAINANT**

**and**

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

**before:**

***J. Krysa, PRESIDING OFFICER*  
*J. Kerrison, MEMBER*  
*T. Usselman, 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:

<b>ROLL NUMBER:</b>	<b>080031503</b>
<b>LOCATION ADDRESS:</b>	<b>1419 17 Ave SW</b>
<b>HEARING NUMBER:</b>	<b>64504</b>
<b>ASSESSMENT:</b>	<b>\$1,700,000</b>

The complaint was heard on September 28, 2011, in Boardroom 8 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- M. Uhryn

Appeared on behalf of the Respondent:

- D. Satoor

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

**Property Description:**

The subject property is an 8,750 sq.ft. (square foot) parcel of land, improved with an unspecified warehouse structure that has not been assigned a value for assessment purposes.

**Issues:**

The Complainant raised the following matter in section 4 of the complaint form:

3. an assessment

The Complainant set out six grounds for the complaint in section 5 of the complaint form with a requested assessment of \$1,090,000; however, at the hearing only the following issue was before the Board:

- The market value of the land, as though vacant is \$140.00 per sq.ft.

**Complainant's Requested Value:**

The Complainant requested an assessment of \$1,225,000. [C1, p.72]

**Board's Decision in Respect of the Issues:**

The Complainant argued that sales of properties in the "Beltline" district indicate a land value of \$140.00 per sq.ft. in contrast to the current assessment equating to \$195.00 per sq.ft.

In support of the argument the Complainant provided a summary analysis of 15 sales of properties located in the Beltline, Sunalta, Mission and Cliff Bungalow districts of the municipality, exhibiting a range of time adjusted sale prices from \$106.09 to \$181.54 per sq.ft., and average and median time adjusted sale prices of \$141.31 and \$136.51 per sq.ft., respectively. A further sale, exhibiting a time adjusted sale price of \$293.95 was identified, but excluded from the analysis as it was considered to be an outlier. [C1, p.15]

The Complainant's time adjustment rate was established from a paired sales analysis of seven sales that transferred between March 2006 and January 2011, exhibiting an average monthly change (decline) of -2% per month over the 59 month period of the analysis. [C1, p.71]

In cross examination, the Complainant conceded there was no evidence that the sale excluded from the analysis and considered to be an outlier, was not a valid indicator of market value. The Complainant further conceded that the sales analysis included two court ordered distress sales.

The Respondent argued that the issue of the Beltline land rate has been heard and decided by the Board in numerous previous matters, with the same evidence and argument submitted by agents of the Representative. The Respondent submitted that the Board in those instances rejected the Complainant's time adjustment analysis, and the Complainant's sales analysis. In support of the argument, the Respondent provided CARB decisions 0801/2011-P, 1973/2011P, and 1974/2011-P.

The Respondent submitted that the assessment is prepared on the basis of vacant land value at \$195.00 per sq.ft., as the improvement is considered to contribute no additional value to the value of the underlying land; a point agreed to by the Complainant.

In support of the \$195.00 per sq.ft. rate, the Respondent provided a summary analysis of 5 sales of properties located in the Beltline and Mission districts of the municipality, with supporting real estate documents for each. The properties transferred between January 2009 and May 2010 (within 18 months of the legislated valuation date), and exhibit a range of residual land rates from \$151.00 to \$324.00 per sq.ft., and average and median time adjusted sale prices of \$228.00 and \$196.00 per sq.ft., respectively, after adjustments for corner lot locations and improvement values. The Respondent argued that the residual land value methodology is an accepted appraisal practice, and the sales reflect the value of the land, as the improvements were near the end of their economic life. [R1, pp.21-84]

In response to the Complainant's time adjustment analysis, the Respondent provided a summary table and supporting documentation to demonstrate that of the seven properties analyzed, two of the resale transactions were court ordered sales, and two were not valid market indicators as a result of being not arms-length in one instance, and being affected by a "land swap" in the second instance. The Respondent argued that the remaining sales were inappropriate to rely in a time adjustment analysis as they were either significantly dated, "post facto", or physically changed between the first and second sale transaction. [R1, pp.137]

In response to the Complainant's sales analysis, the Respondent argued that of the 15 total sales in the analysis, seven occurred more than eighteen months prior to the legislated valuation date. The Respondent argued that these land rate conclusions are questionable indicators of market value as a result of the Complainant's time adjustment methodology. Further, one of the seven properties recently re-sold at \$269.00 per sq.ft.; however, the Complainant failed to include that transaction in the land rate analysis or the time adjustment analysis. The Respondent further argued that two of the Complainant's sales occurred subsequent to the legislated valuation date, and provided documentary evidence to demonstrate that the Complainant's remaining six sales included a non-arms length transaction and a court ordered sale. [R1, p. 101]

The Respondent conceded that the Complainant's remaining four sales were valid indicators of market value; however, submitted that they exhibit a value range of \$184.00 to 300.00 per sq.ft. which is supportive of the assessment. The Respondent further argued that these sales demonstrate that the Complainant's -2% per month time adjustment conclusion is erroneous.

[R1, p. 134]

**Decision:**

The Board finds that the Complainant has failed to provide sufficiently reliable evidence to demonstrate that the market value of the land is not \$195.00 per sq.ft., as assessed.

The Board did not find the Complainant's time adjustment analysis to be compelling evidence as it included a non arms-length transaction, court ordered sales, and a transaction that cannot be considered a valid market indicator due to a "land swap" arrangement between the vendor and the purchaser. Notwithstanding the inclusion of these transactions, the Board is not persuaded that the Complainant's time adjustment conclusion of -2% per month is valid as the conclusion is reflective of the "average" of seven sales in the analysis, over a variety of time frames encompassing dissimilar market periods. Further, the Complainant's -2% per month adjustment applied to 2007 sales is contradicted by the -1.08% per month time adjustment evident from the property located at 626-14 Ave SW between 2007 and the July 2010 legislated valuation date.

The Board also did not find the Complainant's sales analysis to be compelling evidence of the market value of land in the Beltline district of the municipality. The analysis included non arms length and court ordered sales which cannot be considered valid market indicators; and the dated, time adjusted sales were rejected as valid indicators of market value as a result of the deficiencies in the Complainant's time adjustment analysis noted above.

The Board is concerned by the Complainant's submission of evidence known to be problematic as a result of several earlier hearings and Board decisions, including:

- Use of known non arms-length sales in an analysis
- Use of known Court ordered sales in an analysis
- Use of known questionable sales in an analysis
- Exclusion of known valid sales deemed "outliers", with no justification
- Exclusion of known valid sales from evidence and analysis

Given that the Complainant is aware of, and concedes to the deficiencies in cross examination, yet continues to make submissions to the Board without retracting such evidence could be perceived as an attempt to mislead the Board. Future conduct in this manner may warrant an award of costs pursuant to Matters Relating to Assessment Complaints Regulation, AR 310/2009.

The assessment is **confirmed** at **\$1,700,000.**

DATED AT THE CITY OF CALGARY THIS

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DAY OF DECEMBER, 2011.

  
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J. Krysa,  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3.	CARB 0801/2011-P
4.	CARB 1973/2011-P
5.	CARB 1974/2011-P

*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.*

## FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Single Tenant	Sales Approach	Land Value