

**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:

Developments West Corporation.
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K Williams, PRESIDING OFFICER
J Mathias, MEMBER
D Steele, 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: 067189795

LOCATION ADDRESS: 1515 8 St SW

HEARING NUMBER: 60813

ASSESSMENT: \$4,660,000

This complaint was heard on the 26th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- G Averback (Lawyer for Developments West Corporation – Owner)
- S Cobb (Assessment Advisory Group)
- F Dyer (Altus Group – Appraiser)

Appeared on behalf of the Respondent:

- L Wong (Assessor)
- P Frank (City of Calgary, Lawyer)

Property Description:

The subject property at 1515 8 Ave SW is a single storey 10,684 square foot (sq ft) retail building built in 1972 on 0.52 ac (22,804 sq ft) of land (46.9% site coverage) in the Community of Connaught which is part of the general area also known as the Beltline. The property was vacant as of July 2010 and has been vacant since 2006. Adjacent to the building is a surface parking lot of 30 stalls. The subject property is classified as CC-COR (City Centre Commercial Corridor District). The property is assessed as if vacant land at a rate of \$204 per square foot (\$195 per square foot base rate plus a 5% corner adjustment).

Board's Decision in Respect of Procedural Matter:

The Board notes that Mr Cobb's status as a representative of the Complainant, notwithstanding that he did not have an Agent's Authorization in writing, was not objected to by the Respondent,

Issues:

The subject property is incorrectly assessed based on market comparables.

Complainant's Requested Value: \$3,900,000 (\$171 per square foot of land)

Background:

The Complainant, Mr Averback, requested permission to speak to the Board to provide background related to the Complaint. With the Board's approval the Complainant advised that in the Fall of 2009 following a meeting with representatives of the Respondent there was an agreement as to the amount of the 2010 Assessment. When the 2010 Assessment was received the amount of the assessment was higher than the amount mutually agreed to during the meeting in the Fall of 2009. The Complainant was advised that the Fall 2009 agreement was over ruled. With little time to prepare for an appeal of the 2010 Assessment the Complainant chose to not file an appeal.

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

The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence.

The Complainant's evidence package included a letter from the Complainant which outlined the history of previous assessments and the 2009 discussions with the Respondent along with a July 6 2010 Appraisal Report for the subject property prepared by the Altus Group Limited.

The Respondent's evidence package included a Summary of Testimonial Evidence; a map identifying the location of the property, photographs of the exterior of the subject property, and information on Beltline comparable properties which included Sales, Court Ordered/Foreclosure Sales of Land and Redevelopment sites as well as listings. Although the evidence included the Court Ordered/Foreclosure Sales of Land and Redevelopment sites a note on page 26 pointed out that the details in the table and the following pages were excluded from the Respondent's analysis.

Complainant's Position

The representative of Altus Group reviewed with the Board the July 2010 Appraisal Report. It was brought to the Board's attention that the property which is located on the Northwest corner of 8th Street and 16th Ave SW has the limitations of a corner location, limited onsite parking and the potential of no access off 8th Street. All of these limitations have delayed the potential redevelopment of the property.

The subject property was valued utilizing the:

- Income Approach/Direct Capitalization Method for improved value of the building, and
- Direct Comparison Method for the land value, as if vacant.

The Direct Capitalization determined the value to be \$2,050,000 and the Direct Comparison Method determined the value to be \$3,900,000. It was the position of the appraiser that the primary weight be given to the Direct Comparison Method as the subject's highest and best use is as a holding property for redevelopment.

Respondent's Position

The Respondent reviewed the City of Calgary 2011 Beltline Non Residential Land Rates (page 14 of Exhibit R-1) and the 2011 Beltline Influence Chart (page 16 of Exhibit R-1). The base land rate for the 3 zones including and adjacent to the subject property is \$195 per square foot. This would be adjusted upward by 5% for the corner location.

The table on Page 15 of Exhibit R-1 presented details on 5 Beltline sales with the appropriate calculations completed to determine the Residual Land Value. All of the sales were located in close proximity to the subject property. Only two of the comparables had the land use CC-COR which is the same as the subject and no adjustments were made to recognize the difference in Land Use. The Residual Land Rate expressed as dollars per square foot (psf) for the 5 comparables ranged from \$151psf to \$324 psf with the median of \$196 psf and the weighted average of \$210 psf. The Residual Land Rate for the transaction of the property immediately adjacent to the subject property (1509 8th St SW) which has the same Land use as the subject was reported to be \$324 psf.

Board's Findings:

The Board rejected the Complainant's income approach on improved building value as the highest and best use is as vacant land. The appraisal presented by the Complainant used 5 sales and 1 current listing (page 28 Exhibit R-1). The sales prices were adjusted by arbitrary percentages. Further the sales were dissimilar; 2 were facing the CPR tracks, one was multi-residential. Four of the five were either foreclosures, court ordered, or non-arms length. Consequently the Board placed limited weight on the appraisal.

The particulars of the subject property do not fit the typical model of a corner site. While it has high traffic and visibility from 8th St SW, there is little to be gained from 16th Ave SW which is a

narrow one-way road. The parking restrictions which have been outlined to the Board during the testimony demonstrated a limiting factor on potential redevelopment of the site. Accordingly, the Board finds the 5% corner premium (applied in the assessment) to be inappropriate in this instance.

The Board accepts the Respondent's evidence of the \$195 per square foot median base land rate.

Board's Decision:

Based on the evidence presented the Board adjusted the assessed value to \$4,440,000 (\$195 per square foot of land).

DATED AT THE CITY OF CALGARY THIS 5 DAY OF December 2011.



Earl K Williams
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Appraisal Report
2. C2	Complainant's Grounds of Complaint
3. 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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	RETAIL	STAND ALONE		