

**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:

Balboa Land Investments Inc. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER

Y. Nesry, MEMBER

D. Pollard, 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:	068 082 809
LOCATION ADDRESS:	101 – 7 Avenue SW, Calgary AB
HEARING NUMBER:	64202
ASSESSMENT:	\$3,290,000

This complaint was heard on the 28th day of September, 2011 at the office of the Assessment Review Board located at Floor No. 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *S. Sweeney-Cooper (Altus Group)*

Appeared on behalf of the Respondent:

- *D. Lidgren (Assessment Business Unit)*

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

There were no procedural or jurisdictional matters to be decided.

Property Description:

The property that is the subject of this complaint is a downtown Calgary parking lot on the southwest corner of 7 Avenue and Centre Street SW. There is no access to any property that fronts onto 7 Avenue which is the public transit corridor (restricted to buses and Light Rail Transit [LRT] trains) through downtown. Access to the 9,757 square foot property is via the east-west lane that runs through the block.

The 2011 assessment is \$3,290,000 which represents the base land rate of \$375 per square foot, with a +5% adjustment for corner location and a -15% adjustment for being located on the LRT corridor.

Issues:

The Assessment Review Board Complaint form filed March 7, 2011 had check marks in boxes 3 (Assessment amount) and 4 (Assessment class) in Section 4 (Complaint Information). For Section 5 (Reason(s) for Complaint), a 13 point list was attached.

At the hearing, the Complainant dealt with one issue:

What is the correct assessment land rate to be applied to this property?

Complainant's Requested Value: \$1,712,353

Party Positions on the Issues:

Complainant's Position:

As at the valuation date, there was a large supply of downtown redevelopment land sites but there was no demand for any redevelopment land at all. As a result, there has been only a

small number of sales of land in downtown over the past couple of years. For that reason, the Complainant provides data on four downtown sales (sale dates between October 2009 and July 2010) but adds a list of eight sales (January 2009 to January 2011) of land in the Beltline which is the south-downtown area between the Canadian Pacific Railway line and 17 Avenue South. Three of the downtown and three of the Beltline sales were “Distressed – Court Order” or “Distress – foreclosure” transactions. The fourth downtown sale was a sale by the City of Calgary (June 2010).

None of the downtown sales are of properties located within market zone DT1 which is the highest valued zone. For the downtown sales, the range of prices is from \$125.13 to \$358.70 per square foot which produces a median of \$192.04 and an average of \$216.98 per square foot. When the Beltline sales prices are added, the median drops to \$183.65 and the average falls to \$183.59 per square foot.

The requested assessment is based on the median (rounded to \$195 per square foot) of the downtown sales prices with the corner and LRT adjustments applied. The Beltline sales are in an area that is inferior to the DT1 downtown market zone but those sales do provide support for the requested rate.

Having regard to the sales presented by the Respondent, the Complainant argues that there is no explanation of the \$375 base rate and therefore it should not be accepted. There is onus on the Respondent to justify how the base rate comes from sales averaging \$567 to \$589 per square foot. In some downtown market zones, the Respondent applies and explains an adjustment for market conditions but that is not the situation here.

It is recognized that “distress” sales lead to concern and may be questionable in some circumstances but in this case, the distress sales are market transactions and they are the most current sales whereas the sales used by the Respondent date to 2007-2008 when the Calgary real estate market was at a peak and there did not appear to be any downside to investing in land and real estate. By mid-2010, the market had turned down sharply. A 2010 Calgary CARB decision was presented in evidence. In that decision, the CARB decided that a distress sale could be given weight.

Respondent’s Position:

The Respondent produced data on four sales of land located within the DT1 market zone. The sales occurred in May 2007, March 2008 and November 2008. Prices range from \$518 to \$707 per square foot which equates to a mean average of \$589 and a median of \$567 per square foot. In addition, there was data on land sales in the DT2 East zone, “post-facto” sales data for a DT2 West site and 2009-2010 data for two of the “distress” sales provided by the Complainant.

For the 919 – 5 Avenue SW site, the sale reported by the Complainant has a reported sale date of October 5, 2009 and a sale price equivalent to \$358 per square foot of land area. The property resold in November 2010 at a price of \$435 per square foot, exhibiting a 22% increase over a period of less than 13 months. In the DT3 (East Village) zone, the sales of two similar properties show that market prices did not change as dramatically as the 5 Avenue SW sale would indicate. One property sold in July 2009 at \$145 per square foot and the similar property sold in March 2010 at \$160 per square foot, exhibiting an increase of 10.3% over eight months.

The Respondent cited two 2010 Calgary CARB decisions wherein the downtown land assessment rate was upheld because the Complainant relied upon distress sales or sales of properties that were dissimilar to the subject.

While there might not have been much in the way of land sales during the valuation year leading up to July 2010, the subject property and many others in downtown operate as surface parking lots which is a good income producing holding use. Owners might be keeping their properties because there is no strong demand for redevelopment sites and the parking operations produce reasonable returns during the interim period.

Board's Decision:

The 2011 assessment is confirmed at \$3,290,000.

Reasons for the Decision:

The subject land is located in the DT1 downtown zone. The Complainant provided four downtown land sales, none of which were in the DT1 zone. During the hearing, the Complainant acknowledged that DT1 was the highest priced zone. There was no indication that the Complainant made any adjustments for the inferior locations of the four comparable sale properties. One of the sales was of a parcel of land that backs onto the Canadian Pacific Railway line. That sale price might have been lower due to that locational factor but there was no adjustment nor discussion of comparability.

The Respondent's sales, on the other hand, are dated and there is no support for the substantial variance between average sale prices of almost \$600 per square foot and the DT1 assessment base rate of \$375.

The \$375 per square foot base rate is not well supported however the \$195 per square foot of the Complainant is clearly produced by sales of inferior properties and there is no recognition of that inferiority. Distress sales may not be ideal but if there is sufficient evidence to show that there was market exposure, they can carry some weight in a comparison process. The lack of consideration of locational differences however does not make the more recent distress sales useful in arriving at a value of the subject DT1 land parcel.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF October 2011.



W. Kipp
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.*

For Administrative Use:

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