

**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:

***Georg Strangemann
(as represented by Altus Group Limited), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
K. Farn, MEMBER
R. Deschaine, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] in respect of an amended property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	201001880
LOCATION ADDRESS:	513 9 Avenue SW
LEGAL DESCRIPTION:	Plan 0614068; Block 3; Lot 2
HEARING NUMBER:	68931
ASSESSMENT:	\$ 9,420,000

- [1] This complaint was heard on the 20 day of February, 2013 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 1.
- [2] Appeared on behalf of the Complainant:
- S. Meiklejohn
- [3] Appeared on behalf of the Respondent:
- D. Grandbois

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] No preliminary, procedural, or jurisdictional matters were identified.

SECTION B: Issues of Merit

Property Description:

- [5] The subject – 513 9 Avenue SW, is a .78 acre (34,123 square foot) vacant land parcel located at the corner of 9 Avenue and 4 Street SW in the downtown core sub-market zone of DT1.
- [6] The Respondent prepared the assessment on the direct comparison approach showing a value of \$325 per square foot with a fifteen percent (15%) negative influence adjustment applied for being adjacent to the Canadian Pacific Railway tracks.

Matters and Issues:

- [7] The Complainant identified two matters on the complaint form:
- Matter #3 - an assessment amount*
Matter #4 - an assessment class
- [8] Following the hearing, the Board met and discerned that this is the relevant question which needed to be answered within this decision:
1. *Is the subject property equitably assessed?*

Complainant's Requested Value:

On complaint form: \$5,110,000
Within disclosure: \$8,310,000 or \$6,500,000
Confirmed at hearing: \$8,310,000

Board's Decision in Respect of Each Matter or Issue:***Matter #3 - an assessment amount*****Question 1 Is the subject property equitably assessed?*****Complainant's position***

- [9] The Complainant presented the subject along with the adjacent parcel, 529 – 9 Avenue SW, to demonstrate their comparability. Both properties are assessed on the direct comparison approach, are one-hundred percent (100%) non-residential, and are land only. The properties are commercial use with identical direct control district land use designations; however, the subject has an inferior maximum developable floor area ratio at 14.4 versus the adjacent parcel at 18.8. Each property has identical area with equal or nearly equal frontage along 9 Avenue and their respective side streets. Until October 1, 2012 both properties had the exact assessment with the Respondent making adjustments for; 'Abutting A Train Track', 'Traffic Main', and 'Transition Zone'. As of the amended assessment the subject property lost the ten percent (10%) negative adjustment for 'Transition Zone' (C1 pp. 14-15).
- [10] In addition, the two properties had identical ownership with two brothers jointly owning both parcels. On June 6, 2012 the owners transferred their fifty percent (50%) ownership of each parcel creating one-hundred percent (100%) ownership of the subject by one brother and one-hundred percent (100%) ownership of the adjacent parcel by the other brother. Essentially the ownership remained unchanged, the manner of division is all that changed. Both properties have an identical tenant, share access and have identical easement agreements. On June 6, 2012 each brother found the value of their respective parcels identical at \$6,500,000. The Complainant suggests that the transfer is the only current indication of value for the subject making the correct assessment \$6,500,000; however, the Complainant admitted that the sale does not reflect typical market conditions but rather is an opinion of value from the parties involved (C1 p p. 20-51).

Respondent's position

- [11] The Respondent indicates that ownership has no bearing on the assessment and that the transfer of June 6, 2012 is not a market value transaction. It transferred with nominal consideration between related parties and without any indication of how the \$6,500,000 value is arrived at.
- [12] The Respondent described the circumstances leading to the assessment amendment; during a hearing on July 30, 2012 involving a different property owner and owner representative; the representative showed that the subject to this hearing was receiving an adjustment for transition

that should also be applied to their property. Subsequent to that hearing the Respondent reviewed the subject and found that an incorrect 'Transition Zone' adjustment had been applied.

- [13] The removal of the incorrect adjustment resulted in the amended assessment (R1 pp. 64-73).
- [14] The Respondent provided examples of how their model is applied to properties in similar circumstance; showing that a property adjacent to 5 Street receives the adjustment regardless of their size while a property close to 5 Street that does not abut 5 Street does not receive this adjustment (R1 pp. 54-63).
- [15] The Respondent provided a '2012 Vacant Land Rates' map with supporting pages to explain the Respondents policy on adjustments with the specific definition for transitional zones (R1 pp. 74-77):

Transition Zone Blend – This can be either a positive or negative adjustment to the assessed base land rate. The purpose of the adjustment is to temper the value change east to west or north to south between market zones with differing assessed rates. These adjustments ensure that property owners on one side of a market zone dividing line are reasonably assessed with owners on the opposite side of a market zone dividing line.

Discussion

- [16] The Complainant indicated that the market value evidence provided by the Respondent is three to four years old with sales in 2007 and 2008 when the subject's valuation is based on July 1, 2011. The results of the sales do not represent the assessment and the Complainant specifically indicated that the value of vacant land used for parking next door to The Bow are not reflective of the value of vacant land used for parking on 9 Avenue. There is no indication of which parcels are being referred to (R1 pp. 80-84).
- [17] The Complainant cited the Acton decision as argument that a sale of the subject is the best indicator of value. The Respondent argued that a non-arms length sale is not a reflection of value and that a related party sale for a nominal amount cannot be relied upon.
- [18] The Complainant raised additional questions about the sales used by the Respondent – showing them as land only sales that have buildings on them, did so at the time of their sales, and still do so today. Again there is no specific indication of which parcels are being referred to; however, the Complainant seemed to referring to all of the sales provided.
- [19] Through questioning it was determined that the policy of adjusting for transition zones is not applied consistently with all properties. The Board learned that the property located at 725 9 Avenue extends some three blocks along 9 Avenue and the rail line; yet, the adjustment is for one single block. Also reading the transcript within the Respondents package shows that the respondent at that hearing defended the adjustment on this subject as being an adjustment between DT1 and the Beltline – something that the Respondent during this hearing expressed was not the case. Additionally the policy does not specifically indicate only adjacent properties are to be adjusted; perhaps leaving discretion to the assessor.

Board's findings

- [20] The Board finds that the subject at 513 9 Avenue SW is not assessed equitably with an identical sized adjacent parcel at 529 9 Avenue SW; and, which in ways is inferior to the adjacent parcel. The transition zone adjustment should be defined by area rather than merely being adjacent. The one-block ruling applied to 725 9 Avenue seems to be a reasonable distance and in any event the subject is adjacent to the Beltline (separated only by a rail line) and should receive the adjustment as described in the Respondent's policy.

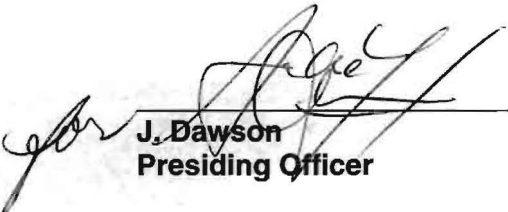
Matter #4 - an assessment class

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

Board's Decision:

- [22] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to the original assessment value of \$8,310,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF March 2013.



J. Dawson
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure – 71 pages
2. R1	Respondent Disclosure – 153 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	Vacant Lane *	Sales Approach	Land Value
				Adjustment