

**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(4).

**between:**

***Baltus Holding LTD., COMPLAINANT***

**and**

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

**before:**

***T. Golden, PRESIDING OFFICER***

***R. Kodak, 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: 067245209**

**LOCATION ADDRESS: 706 10 Av. SW**

**HEARING NUMBER: 61045**

**ASSESSMENT: 3,360,000.00**

This complaint was heard on 4 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *K. Stader*

Appeared on behalf of the Respondent:

- *R. Natyshen*

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

There were no preliminary issues.

**Property Description:**

The property is a vacant site of 20,306 square feet (sq. ft.) located in the Beltline area. Currently the parcel is used for parking. The assessment was prepared using the direct sales approach and a base value \$195.00. An adjustment of 15% was given recognizing the properties location on the railway.

**Issues:**

- 1) Should the assessment be reduced by 20% to recognize an existing utility right of way.

**Complainant's Requested Value:** \$2,566,000.00

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

- 1) The assessment should not be reduced by 20%.

The Complainant described the parcel and the fact that there was a utility right of way running along the east side of the property that makes a strip 30 feet by 160 feet unusable for development. The right of way would have a negative impact on the market value of the land. Pictures were presented showing the right of way being excavated for utility upgrade or repair demonstrating the possible disruption that can occur with the right of way. Four similar and comparable parcels were presented to demonstrate the subject parcel was inequitably assessed. Two of the comparables have improvements but are assessed for only land value and two were operated as parking lots. The point of the comparables was to show that the subject parcel was assessed at the same rate as the comparables but do not have the restriction of a right of way. To correct the situation the subject parcel assessment should be reduced by the area restricted by the right of way or 20%.

In the Respondent's opinion the impact of a right of way should not be considered as the parcel is assessed equitably. Three parcels were shown to have rights of way and no adjustments. Two of the properties were developed and the area of the right of way was used as parking for

the improvement. No development permit has ever been applied for therefore no design for an improvement has been prepared that may demonstrate a restriction. The right of way may be used for parking. In one comparable the easement was in the central part of the parcel and no adjustment was made. It was pointed out and agreed by the Complainant that the actual right of way is 15.0 feet by 160 or 12%. The rest of the area of the lot is east of the right of way.

The Board recognizes that there is a restriction registered on the title, but was given no market evidence regarding the impact of a right of way on the market value of the land. Equity appears to be maintained as Respondent showed that other parcels with similar restrictions received no adjustments and the subject property is assessed the same as these parcels.

Construction had recently been conducted on the right of way but there was no information about how the parking operation was affected or if some compensation was paid for the disruption. Consequently evidence of the disruption was given little weight.

The board notes that the Complainant is requesting a 20% reduction on the assessment and that the actual right of way is 12% of the lot area. Further the requested adjustment implies that there is no value or use for neither the right of way nor the area of land to the east which is unproven.


There was a lack of evidence to support the requested assessment and the Board is not convinced to varying the assessment.

**Board's Decision:**

The assessment is confirmed at \$3,360,000.00

DATED AT THE CITY OF CALGARY THIS 22<sup>nd</sup> DAY OF November 2011.



  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	other property	parking	sale approach	land value