

**CALGARY
COMPOSITE 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

Octagon Properties Ltd., (as represented by Altus Group Ltd.), COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before

M. Chilibeck, PRESIDING OFFICER

J. Joseph, 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: 067243006

LOCATION ADDRESS: 907 – 9 AV SW

HEARING NUMBER: 63259

ASSESSMENT: \$7,590,000

This complaint was heard by the Composite Assessment Review Board on 4th day of October, 2011 at the office of the Assessment Review Board located in Boardroom 6 on Floor Number 4 at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- S. Sweeney-Cooper

Appeared on behalf of the Respondent:

- D. Grandbois

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

Neither party raised any objections to a member of the Board hearing the subject complaint.

There were no preliminary matters raised by either party.

Property Description:

The subject property is located in the DT2E (Downtown 2 East) market zone in the downtown commercial area of the City of Calgary. It comprises of a low rise office/retail building containing 16,603 sq. ft. on a parcel of land containing 30,678 sq. ft.

Issues:

The Complainant identified the matters of an assessment amount and assessment classification on the Assessment Review Board Complaint (complaint form) and attached a list outlining several reasons for the complaint. At the hearing the complainant advised that the assessment amount is under complaint. The Board summarized the issues as follows:

1. The assessed base land rate is not fair and equitable.

<u>Complainant's Requested Value:</u>	\$5,692,500 per the complaint form.
	\$5,383,000 per evidence disclosure.

Board's Findings in Respect of Each Issue:

The subject property, though improved with an office/retail type building, is assessed on the basis of the value of the land without an improvement because the capitalized income value as an improved property is less than its land value.

The Respondent has assessed the subject land at a base rate of \$275 per sq ft of land area and applied an influence allowance for an effective assessed rate of \$247 per sq ft.

1) Assessed Base Land Rate

The Complainant contends that the base land rate should be \$195 per sq ft based on four sales, dated from October, 2009 to July, 2010, of vacant land in the downtown area of Calgary and

accepts the Respondent's influence allowance. These sales are the most recent sales available in downtown Calgary. The Board finds that these sales do not support the Complainant's request. Two sales are in the EVG (East Village) market zone, one of which is a "distress court order" sale. The other two sales are in the same market zone as the subject and are either a "distress court order" or "distress foreclosure" sale.

The Board finds that the two EVG sales are located in an inferior market zone. Land in the EVG market zone is assessed at a base rate of \$145 per sq ft versus land in the DT2E zone at \$275 and land in the DT2W zone at \$180. These rates recognize the different market values between each of the market zones.

The Respondent provided three vacant land sales in the subject market zone DT2E that range in sale date from August, 2007 to August, 2008 with a mean of \$421 and a median of \$367, not adjusted for time, in support of the assessed rate of \$275 per sq ft. The Board finds the Respondent's land sales analysis, although not time adjusted, persuasive support for the assessed base rate of \$275 per sq ft for DT2E zone.

Also, seven sales were provided in market zone DT2W, adjacent to the west of the subject zone, that range in sale date from November, 2006 to July, 2009 with a mean of \$241 and a median of \$243 in support of the assessed base rate of \$180 per sq ft. The Board finds the DT2E sales support of the base assessed rate of \$275 for the subject land and the DT2E and DT2W sales, not adjusted for time, support the fact that the market zones as established by the Respondent each have different market land rates.

The Complainant provided the Respondent's vacant land sales analysis for seven sales in DT2W and two sales in CHNA (China-town). The DT2W sales range in sale date from November, 2006 to July, 2009 with a mean rate of \$241 and median rate of \$243, not adjusted for time, in support of the \$180 per sq ft assessed base rate. The CHNA sales range in date from December, 2006 to May, 2007 with a mean and median rate of \$340, not adjusted for time, or a time adjusted mean and median rate of \$244 in support of the assessed base rate of \$180 per sq ft. This analysis persuaded the Board that the market zones have different market land rates.

The Board finds the distress sales are not reflective of market value as defined in the Municipal Government Act (MGA). Section 1(1) of the Municipal Government Act defines market value as follows:

"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if sold on the open market by a willing seller to a willing buyer,

These properties were not sold by a willing seller as defined in the Act; the seller was forced to sell the property.

Evidence was provided that the subject property sold by court order in December, 2010 for \$6,700,000 or \$218 per sq ft of land area and had sold previously in September, 2008 for \$8,250,000 or \$268 per sq ft. versus the subject's effective assessed rate of \$248.

The Board finds in evidence a paired land sale, 919 – 5 Av SW, which sold under duress in May, 2009 at \$358 per sq ft and subsequently sold in November, 2010 at \$435 per sq ft, a 21.5% increase. The Board recognizes that the November sale is post facto the valuation date

of July 1 however it sold in the relevant assessment year. The Board placed weight on this sale that indicates a market sale price is greater than a "duress" sale price and that this sale supports the assessed base rate of \$275 for the subject land. Also, when the 21.5% increase is applied to the December sale rate of \$218 that equals \$264 which indicates support for the assessed base rate for the subject property.

The Board finds the Complainant's sales evidence does not support a change to the assessed base rate. The Sales are in an inferior market location or not valid market sales. The Board was persuaded by the Respondent's vacant land sales in the subject's market zone, although somewhat dated, support the assessed base rate.

Board's Decision:

The Board confirms the assessment at \$7,590,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF November 2011.



M. Chilibeck
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R2	Respondent's 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.*

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Decision No. 046-2498-2011-P			Roll No. 067243006	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Office	Low-Rise	Sales Approach	Land Value