

**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

La Caille Fourth Avenue Inc. (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: 201499431

LOCATION ADDRESS: 526 – 4 AV SW

HEARING NUMBER: 64134

ASSESSMENT: \$9,970,000

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 DT1 (Downtown 1) market zone in the downtown commercial area of the City of Calgary. It comprises of a low rise retail building containing 11,335 sq. ft. on a parcel of land containing 27,987 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 issue as follows:

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

Complainant's Requested Value: \$7,477,500 per the complaint form.
\$5,184,500 per evidence disclosure.

Board's Findings in Respect of Each Issue:

The subject property, though improved with a 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 \$375 per sq ft of land area and applied influence allowances for an effective assessed rate of \$356 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 allowances. 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 DT1 (Downtown 1) zone at \$375 or land in the DT2E zone at \$275. These assessed rates recognize the different market values between each of the market zones.

The Respondent provided four vacant land sales in the subject market zone DT1 that range in sale date from May, 2007 to October, 2008 with a mean of \$589 and a median of \$566 per sq. ft., not adjusted for time, in support of the assessed rate of \$375 per sq ft. The Board finds the Respondent's land sales analysis, although not time adjusted, persuasive support for the assessed base rate of \$375 per sq ft.

Also, three sales were provided in market zone DT2E, adjacent to the west of the subject zone, 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 that market zone's assessed rate of \$275 per sq ft. The Board finds the DT2E sales support of the base assessed rate of \$375 for the subject land and the DT2E and DT1 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 (Chinatown). 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.

The Respondent provided evidence that the subject property was purchased in May, 2007 for \$14,500,000 or \$518 per sq ft of land area. Although this sale is somewhat dated, the effective assessed rate is 31% less than the sale rate. This sale is used by the Respondent in support for the assessed base rate in the subject's market zone of DT1.

The Board also 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 DT2E land.

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 \$9,970,000.

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



M. Chilibeck
Presiding Officer

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD**

Decision No. 046-2499-2011-P			Roll No. 201499431	
<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