

**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

552861 Alberta 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: 068083609

LOCATION ADDRESS: 140 – 8 AV SW

HEARING NUMBER: 64200

ASSESSMENT: \$4,870,000

This complaint was heard by the Composite Assessment Review Board on 5th 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:

- E. Borisenko

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 on Stephen Avenue Mall in the DT8 (Downtown 8) market zone in the downtown commercial area of the City of Calgary. It comprises of a low rise office/retail building constructed in 1931 containing 39,884 sq. ft. on a parcel of land containing 12,999 sq. ft. This property is listed as a historical building on the City of Calgary's inventory of evaluated historic resources and is known as the Bank of Montreal. It has been vacant for several years due to major structural problems.

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:

\$2,652,500 per the complaint form.
\$2,534,800 per the evidence disclosure.
\$3,421,000 changed during the hearing.

Board's Findings in Respect of Each Issue:

The subject property, though improved with an office/retail type building. It 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 as though vacant.

The Respondent assessed the subject land at a base rate of \$375 per sq ft of land area and no influence allowances were applied. The Complainant is requesting a change to the assessed base rate to \$263 per sq ft.

1) Assessed Base Land Rate

The Complainant contends that the base land rate should be based on four sales of vacant land in the downtown area of Calgary and adjusting the median of \$195 of these sales upward by 35% to reflect the superiority of the subject area for a requested base rate of \$263 per sq ft. The Complainant determined the upward 35% adjustment to the median of \$195 by using the ratio of Respondent's assessed base rates for DT1 of \$375 versus DT2E of \$275 per sq ft to recognize the superiority of location of the subject land.

The Board finds that the Complainant's adjustment of 35% is arbitrary and not supported by any evidence.

The Board finds that these sales do not support the Complainant's request. Two sales are in the EVG (East Village) market zone and one of which is a "distress court order" sale. The two other sales are in DT2E 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 zone at \$375, land in the DT2E zone at \$275 or land in DT8 zone at \$375. These assessed rates recognize the market values of land in each of the market zones.

The Respondent provided four vacant land sales in market zone DT1 that range in sale date from May, 2007 to November, 2008 with a mean of \$589 and a median of \$567, not adjusted for time, in support of the assessed rate of \$375 per sq ft. And three sales were provided in market zone DT2E, adjacent to the west of DT1 zone, that range in sale date from August, 2007 to September, 2008 with a mean of \$422 and a median of \$367, not adjusted for time, in support of the assessed rate of \$275 per sq ft. Also six sales in market zone EVG (also referred to as DT3) that range in sale date from July, 2008 to March, 2008 with a mean of \$174 and median of \$169, not adjusted for time, in support for the assessed base rate of \$145 per sq ft.

The Board finds the DT1 sales support of the base assessed rate of \$375 for the subject land. Also, the sales from each of the said zones support the fact that the market zones as established by the Respondent each 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 Board finds the Complainant's sales evidence and subjective adjustment of 35% does not support a change to the assessed base rate. The Sales are in an inferior market location or are 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 \$4,870,000.

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

A handwritten signature in blue ink, appearing to read "M. Chilibeck", is written over a horizontal line.

M. Chilibeck
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R2	Respondent's Disclosure
3. R3	CARB 1263-2011-P

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).*

(a) *the assessment review board, and*
(b) *any other persons as the judge directs.*

Decision No. 046-2500-2011-P			Roll No. 068083609	
<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