

**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:**

***Condominium Corporation No. 0010627, COMPLAINANT (as represented by Altus Group Limited)***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***J. Dawson, PRESIDING OFFICER***

***A. Zindler, MEMBER***

***J. Mathias, 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:

<b>ROLL NUMBER:</b>	<b>055511224</b>
<b>LOCATION ADDRESS:</b>	<b>279 – 19 Street NE</b>
<b>HEARING NUMBER:</b>	<b>63419</b>
<b>ASSESSMENT:</b>	<b>\$ 100,000</b>

Appeared on behalf of the Complainant:

- Appeared on behalf of the Respondent:

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

**Property Description:**

### Issues:

Matter 3	assessment amount
Matter 9	whether the property or business is assessable

1. Did the Respondent capture the characteristics and condition of the subject site when creating the assessment?
2. Should the subject site be non-assessable and reduce the assessed value to zero in order to recognize its use as a roadway?
3. Is there inequity with other properties within the municipality where a nominal \$750 is assessed for required parking?

**Complainant's Requested Value:** \$ 0 (complaint form and an option in disclosure)  
\$ 750 (alternative option in disclosure)

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

Did the Respondent capture the characteristics and condition of the subject site when creating the assessment?

**The Board has determined the subject site is assessed correctly taking in to consideration the characteristics and condition as of December 31, 2010.**

The Board noted that under the I-G land use designation the market value of the land is \$1,550,000 based on vacant developable land rates (R1 page 10). The Board found the Respondent made significant adjustments to the subject site for the influences found and calculated an assessment of just \$100,000 or a little more than 6% of typical market value.

The Complainant provided no evidence to show which characteristics of the subject site warrant additional influence adjustments.

Should the subject site be non-assessable and reduce the assessed value to zero in order to recognize its use as a roadway?

**The Board has determined the subject site is not a road as defined in the Act and is assessed correctly.**

In making the decision the Board carefully examined the evidence presented by both parties and noted the Act where it states:

***298(1) No assessment is to be prepared for the following property:***

- (i) roads, but not including a road right of way that is held under a lease, licence or permit from the Crown in right of Alberta or Canada or from a municipality and that is used for a purpose other than as a road;*

The Board in order to determine what defines a road reviewed the interpretation section of the Act where the following is found:

***1(1) In this Act,***

***(z) "road" means land***

***(i) shown as a road on a plan of survey that has been filed or registered in a land titles office, or***

***(ii) used as a public road,***

***and includes a bridge forming part of a public road and any structure incidental to a public road;***

The Board found that the Complainant provided no evidence from the certificate of title or condominium plan to show that the subject site is registered and/or designated as a roadway. Furthermore the Complainant provided no evidence to show the Board that the subject cannot be used or sold for a different purpose as permitted in the I-G land use designation.

Is there inequity with other properties within the municipality where a nominal \$750 is assessed for required parking?

**The Board has determined the assessment of the subject site is fair and equitable.**

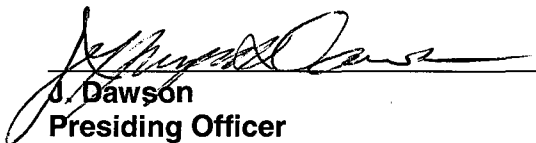
In making the decision the Board carefully examined the evidence presented by both parties and noted that many of the comparables presented by the Complainant are of dissimilar characteristics dealing with required parking for a nearby or adjacent property. In these cases the business located on the properties would not be permitted and would not meet the land use designation requirements if the parking was not provided via an adjacent or nearby site. In the case at hand, the Complainant provided no evidence to suggest that the subject site is required for the adjacent and nearby properties in order to meet a parking requirement or any other condition under their land use designation.

The Board also considered the subservient parallel drawn by the required parking comparables and found the subject site, in this case, may have been required to access portions of the adjacent properties. However, the Complainant provided no evidence to show the Board that the title or condominium plan required the subject site for the sole purpose as a roadway.

**Board's Decision:**

After considering all the evidence and argument before the Board, the assessment is confirmed at \$100,000.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF November 2011.

  
J. Dawson  
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>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Specialty Property	Sales Approach	Land Value