

**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:

Palliser Square Properties Ltd. (as represented by AltusGroup Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, R. Deschaine
Board Member 2, A. Wong***

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: 068230200

LOCATION ADDRESS: 133 9 Avenue SE

HEARING NUMBER :63900

ASSESSMENT: 3,370,000

This complaint was heard on the 19 day of October, 2011 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Ten.

Appeared on behalf of the Complainant:

- *S. S. Cooper*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

None

Property Description:

The subject is an undeveloped 11,983 s.f. (0.998 acres) parcel, located at the East end of the Palliser Square complex, in downtown Calgary. The site is approximately 65 feet wide, by a depth of approximately 181 feet. The site backs onto the C.P. Rail right of way, and overlooks the First Street underpass as it crosses underneath the railway tracks. The subject's specific location is on the eastern edge of the DT1 sub-market zone.

Issues / Appeal Objectives

The site is currently assessed at \$375 per s.f. before negative adjustments of 15 per cent and ten per cent are applied for proximity to the rail line, and location in the downtown transition zone. The actual assessment calculates to \$281.23 per s.f. The Complainant's issues are as follows (as stated in the Evidence Submission of the Complainant).

1. The 2011 Assessed value does not reflect market value for the subject property based on the Direct Sales Comparison Approach to Value.
2. The 2011 Assessed Value does not reflect all of the negative site influence adjustments required for the subject property.
3. The 2011 Assessed Value does not reflect the 2010 CARB Decision of the Subject Property.

The Complainant suggests that a "starting" land assessment rate of \$258.00 per s.f. is more appropriate, with subsequent downward adjustments to account for the site's deficiencies.

Complainant's Requested Value: \$1,000 on the Complaint Form, amended to \$1,850,000 in the Evidence Submission. The Complainant's requested value calculates to \$154.38 per s.f.

Evidence

In support of the suggested starting land rate, the Complainant submitted four comparables. The average and median reflected by the four transactions was \$191.83 and \$177.30 per s.f. Of the four transactions, two are court ordered distress sales. One is a site in the East Village, and is considered to be substantially locationally inferior to the subject's location. The fourth transaction is the sale of a closed laneway from The City of Calgary to Imperial Oil Resources Limited. The Complainant submitted that this site has the same functional deficiencies as the subject. Imperial Oil owns most of the surrounding properties.

It was the position of the Complainant that the subject's site dimensions are not conducive to efficient development on the scale typical for downtown Calgary. The site also has setback requirements imposed by the prevailing Land Use Bylaw. The Bylaw requires a setback of seven feet along the front of the lot, and 17.00 feet along First Street. The setback renders the developable portion of the site to be approximately 48 feet wide. The Complainant suggests that the reduced developable width results in reduced functionality, and that an additional 15 per cent reduction should be applied.

The Respondent submitted four vacant land sales in zone DT1, the same sub-market as the subject. All four transactions took place in 2007 and 2008. The mean and median selling price reflected by the four was \$578 and \$567 per s.f. It is not clear to this Board exactly how these rates provide support for the City's assessed rate of \$375 per s.f. in that zone. Three zone DT2 sales submitted by the Respondent reflect an average and median rate of \$422 and \$367 per s.f.

Board's Decision

Although this Board has cognizance of the 2010 CARB decision referred to by the Complainant, this Board is not bound or influenced by it or any of its contents.

None of the evidence submitted by either party proved or disproved a specific value estimate.

The Complainant's comparables fall short of supporting the requested starting land rate of \$258 per s.f. The only arms length transaction submitted by the Complainant for land in DT1 was the Imperial Oil acquisition from the City, at \$200 per s.f. In the opinion of this Board, even this transaction is tainted because Imperial Oil is essentially the only logical purchaser. Having said that, the site is in the same sub-market as the subject, and suffers from similar functional deficiencies due to size and shape. The \$200 per s.f. selling price, however, does not support the Complainant's request, even after a minus 10 per cent transition zone adjustment is applied.

Notwithstanding that this Board found little merit in the Respondent's defence of the \$375 per s.f. land rate, nothing in the evidence submitted cast doubt on the rates veracity. This Board is satisfied that the Respondent's treatment of the subject's limited size and restrictive shape was dealt with adequately by the Respondent. Finally, it is the opinion of this Board that the Complainant's comparables did not constitute convincing evidence. The Complainant's evidence failed to adequately discredit the Respondent's evidence so as to cast doubt on its validity. In the Board's opinion, the Complainant did not meet the onus required to convince the Board that a change in the assessment is required or justified.

The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF NOVEMBER, 2011.



Jerry Zezulka
Presiding Officer

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

NO.	ITEM
-----	------

- | | |
|----|---|
| 1. | C1 Evidence Submission of the Complainant |
| 2. | R1 Evidence Submission of the Respondent |

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.*

For MGB Administrative Use Only

Decision No. 2602/2011 - P			Roll No. 068230200	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land only	Market value	Direct Comparison	Market data