

**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:

First Capital (McKenzie Towne Lands)(as represented by AltusGroup), 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: 200349751

LOCATION ADDRESS: 142 McKenzie Towne Linc SE

HEARING NUMBER: 63891

ASSESSMENT: 1,440,000.00

This complaint was heard on the 20 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:

- *D. Hamilton*

Appeared on behalf of the Respondent:

- *A. Mohtadi*

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

None

Property Description:

The subject is an undeveloped 43,488 s.f. (0.998 acres) parcel, located in the community of McKenzie Towne, in South East Calgary.

Issues / Appeal Objectives

This is a complaint regarding the assessed land value. It is the Complainant's position that the land should be assessed at a rate of \$950,000 per acre. The current assessment is based on the City's rate of \$64.00 per s.f. for the first 20,000 s.f., and \$7.00 per s.f. for the remainder of the site. The subject's assessment calculates to \$33.00 per s.f. overall. Application of these rates produces an assessment of \$1,440,000 for the subject.

Complainant's Requested Value: \$950,000

Evidence

The Complainant submitted four comparables that the Complainant considered to be the "principle comparables". Three are in the developing community of Walden, in SE Calgary. One is in Royal Vista, a developing community in NW Calgary. Three of the four transactions are post facto. The average and median of the four sales is \$1,009,123 and \$950,000 per acre. The Complainant submitted five additional comparables, all located in developing residential areas of the City. The average and median of these transactions is \$941,758 and \$828,904 respectively. The latter group of sales occurred between December, 2008, and November, 2011. There is some indication that one of the transactions was non-arms length. Excluding this sale, the average and median calculate to \$989,198 and \$957,306 per acre.

The Respondent presented seven comparable land sales. Locations vary throughout the City. Transaction dates are primarily in 2008, with two in 2009. The time adjusted selling prices range from \$11.69 to \$68.73 per s.f. Two of the comparables are substantially smaller than the subject, at 12,985 and 19,907 s.f. One is substantially larger, at 116,000 s.f. No size adjustment was applied to these comparables.

Board's Decision


Of the Complainant's "principle " comparables, three are post facto. The typical approach taken by the Courts and quasi-judicial bodies has been to attribute comparatively little weight to post facto evidence of value. Simply stated, the post facto evidence was not available at the time, so it could not possibly have been used in the preparation of the assessment or valuation. So, while this type of evidence is useful in testing the validity of a conclusion, it cannot form the basis for a new conclusion or opinion of value. Similarly, this Board does not accept the post facto transactions as the basis for arriving at a conclusion different than the one already before this Board.

The Complainant's fourth comparable is a 2008 transaction, for which no time adjustment was quantified. The unadjusted price is \$1,308,678.00 per acre. But without any time adjustment, this transaction is not very helpful in arriving at a July 31, 2011 value.

Because of the size variation between properties, the Board is of the opinion that three of the Respondent's comparables are not very comparable to the subject. The remaining four comparables reflect a median selling price of \$25.49 per s.f. or \$1,110,344 per acre. This evidence is considered by this Board to be the best evidence of value for the subject, at the effective date of valuation. The Board rounds the estimate to the nearest \$10,000.

The assessment is reduced to \$1,110,000.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF NOVEMBER, 2011.



Jerry Zezulka
Presiding Officer

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

NO.	ITEM
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| 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.*

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Decision No. 2603/2011 - P			Roll No. 200349751	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land only	Market value	Direct Comparison	Sales, post facto sales