

**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:

***Shepard Development Corporation, as represented by Altus Group Limited,
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
J. Joseph, MEMBER
E. Reuther, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) 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:	200685840
LOCATION ADDRESS:	4280 130 Av S.E. Calgary, AB
HEARING NUMBER:	63523
ASSESSMENT:	\$119,500

This complaint was heard on the 20th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *A. Izard, Altus Group Limited*

Appeared on behalf of the Respondent:

- *J. Lepine, City of Calgary*
- *C. Lee, City of Calgary*

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

During the course of the hearing, the Complainant objected to the introduction of page 20 of the Respondent's Disclosure document because it differed from the information provided to the Complainant. The difference is in the statement of Influence Percentage – being 75% on p.20 and being 0% on the pre-complaint correspondence with the Complainant. The Roll Value, however, is the same on both. The Board advised that it would accept the page since it met the disclosure guidelines and was accompanied by an email explaining the discrepancy.

Property Description:

The property under complaint is a crescent-shaped, 0.80 acre parcel, located at 4280 130 Av, S.E., at the intersection of Deerfoot Tr. S.E. and 130 Av S.E. It is designated as Industrial-Business (I-B) under the City's Land Use Bylaw and assessed, using the sales comparison approach, at \$119,500.

Issues:

Does the assessment of the subject site reflect market value having regard to its shape, access, servicing and future development potential?

Complainant's Requested Value: The requested assessment on the Complaint Form was \$750. The request was revised on the Complainant's Disclosure document to either \$51,000 or \$48,000.

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

The subject property is a remnant parcel, part of a larger piece that was obtained by the Minister of Infrastructure and Transportation for the construction of the interchange at Deerfoot Trail and 130 Av S.E. This remnant became superfluous to that construction requirement and, according to the Land Titles transfer documents supplied by the Complainant in pp. 19-23, C1, was sold back to the original owner, the Complainant, in June of 2006 for \$121,000. The Complainant argued that the parcel has limited future development potential and, therefore, market value, having regard to the lack of legal access, services and its irregular shape.

The Complainant noted that in 2010, CARB decision 1245/2010-P, as reproduced in pp. 30-41 of C1, reduced the assessment on the subject parcel to \$60,000 on the basis that it was farmed and formed "a functional component of the larger adjacent unit under the same ownership as the subject". The Complainant argued that the *Globexx Properties Ltd. v. Edmonton (City)*, 2011, ABQB 464, decision would require that the Respondent use last year's Board-revised assessment as the starting point and then reduce that by 1.25% per month for the intervening months as a negative time adjustment. This was the basis for his request for an assessment of \$51,000.

The two parcels are indeed owned by the same owner; however, they are separated from each other by a fence and the evidence of the Complainant confirmed that the subject parcel is not farmed either separately or in conjunction with the adjacent parcel. The Board also notes that *Globexx* is not settled law. Madam Justice Shelley provided reasons on an application for Leave to Appeal, not on the Appeal itself. While the Leave Application reasons might be instructive or supportive in other circumstances, that is not the case here where the fact situation, regarding the farmland status, is much different from what was advanced at the previous year's hearing.

The Board rejected the request for a revised assessment based on the previous CARB decision because it was clear that the arguments related to farming were not applicable at the relevant valuation dates of July 1, 2010 or December 31, 2010.

The Complainant's alternate assessment request for \$48,000 is based on the City of Calgary's published 2011 industrial land rates for south-east I-B lands which are \$600,000 per acre. The Complainant then argued that a total reduction of 90 per cent be applied to the calculated assessment of \$480,000 (\$600,000 x 0.80 acres). The reduction would reflect a 75 per cent decrease for lack of services and limited access and an additional 5 per cent each for the negative influences of land use restriction, shape and the residual, or remnant, status of the parcel.

The Respondent explained, referencing p.20 of R1, that the 2011 assessment was based on the market value of vacant land, specific to the land use district and location, as published in their 2011 land rates. The Respondent then applied a 50 per cent reduction to the market value to account for the lack of services and a further 25 per cent for the negative influence of shape. While there was the potential for the Respondent to further reduce the market value, the Respondent noted that he did not typically reduce value by more than 75 per cent and, in this instance, did not believe that there was enough information to suggest that additional reductions were warranted.

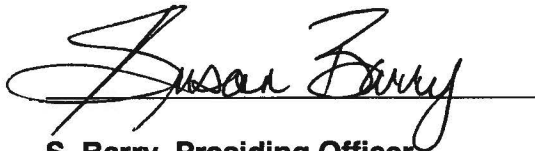
The Board noted the following factors: according to the submitted photographs, the subject parcel does support some development - a large, permanent sign advertising a neighbouring shopping centre has been erected on it; there is no evidence, by way of the Land Use Bylaw, that the parcel cannot sustain some additional kind of development subject, of course, to conditions imposed by the City; there is no evidence that the parcel does not have legal access, although the Board agrees that it is unlikely that physical access to either the Deerfoot Trail or 130 Av S.E. would be permitted; no evidence was tabled with respect to the potential for consolidation of the subject to the adjacent parcel in order to address size, shape and access issues; there is no evidence that the City's published land rate is incorrect or inequitable through sales comparisons or other valuation approaches.

The Board agreed that this is an irregularly shaped parcel that, independently, likely has limited development potential. However, the Complainant failed to show that the land rates that form the basis of the assessment are incorrect, nor did he convince the Board that additional influences should be added to the base 75 per cent. Accordingly, there is no merit in revising the assessment.

Board's Decision:

The 2011 assessment is confirmed at \$119,500

DATED AT THE CITY OF CALGARY THIS 9 DAY OF November 2011.


S. Barry, Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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.*