

**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:

***The Manufacturers Life Insurance Company (as represented by Colliers International),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Vercillo, PRESIDING OFFICER
T. Usselman, MEMBER
H. Ang, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	HEARING NUMBER	ASSESSMENT
068132505	337 11 AV SW	61141	\$1,360,000
068132604	335 11 AV SW	61144	\$1,550,000

This complaint was heard on the 18th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *D. Porteous*

Appeared on behalf of the Respondent:

- *L. Wong*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject properties are an assemblage of two improved surface parking lots located in the "Beltline" district of SW Calgary. According to the information provided, the properties contain an area of 0.16 acres or approximately 6,997 square feet (sf) and 0.18 acres or approximately 7,976 sf respectively, with a land use designation of "City Centre Mixed Use".

The subject properties are specifically located in an assessment stratified area or non residential zone (NRZ) known as "BL3". Accordingly, they are assessed using the Sales Comparison approach to value, at a rate of \$195.00 per square foot (psf).

Issues:

There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issue:

- 1) The subject properties' assessed land rate is not reflective of market value and should be reduced to \$140.00 psf.

Complainant's Requested Value:

LOCATION ADDRESS	REQUESTED VALUE ON COMPLAINT FORM	REQUESTED VALUE AT HEARING
337 11 AV SW	\$374,500	\$979,580
335 11 AV SW	\$997,000	\$1,120,000

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

ISSUE 1: The subject properties' assessed land rate is not reflective of market value and should be reduced to \$140.00 psf.

Note: Both the Complainant and the Respondent requested that testimony and evidence provided on this issue, that was heard in detail under Hearing #61542, be brought forward from that hearing to this hearing. Further, testimony and evidence provided by both the Complainant and the Respondent on this issue was heard in detail in this hearing. It is the intent of both parties and this CARB that arguments made and evidence provided in this hearing and for this issue, will be brought forward from this hearing to other hearings where applicable and indicated by the parties.

The Complainant provided a 79 page document that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- A chart of "Beltline Land Sales" comparables. The chart provided information on 16 sales of properties that although were sold for their land value, mostly contained improvements and occurred in the Beltline district from September, 2007 to January, 2011. The chart provided the following information on 15 of those sales, not including the property at 2207 4 ST SW, that sold on May 31, 2010, and was considered an outlier by the Complainant:
 - Site areas ranged from 5,000 sf to 24,510 sf, with a mean of 11,154 sf and a median of 7,082 sf.
 - Unadjusted sales prices ranged from \$885,000 to \$9,200,000, with a mean of \$2,441,067 and a median of \$1,650,000.
 - Unadjusted sales prices psf ranged from \$120.36 to \$400.00, with a mean of \$219.57 and a median of \$204.86.
 - The Complainant determined a time adjustment factor of 0.02 per month and applied that factor to all sales in order to determine a "time-adjusted" sales price as at the assessment valuation date of July 1, 2010. All sales occurring prior to July 1, 2010 were adjusted downwards by negative 0.02 for each month that the sale occurred prior to the valuation date. The two post-facto sales were adjusted upwards by positive 0.02 for each month that the sale occurred after the valuation date. The adjusted sales prices ranged from \$613,000 to \$3,304,000, with a mean of \$1,578,693 and a median of \$1,057,500.
 - Using the same time adjustment factor indicated in the previous bullet, the Complainant determined that the time-adjusted sales prices psf ranged from \$106.09 to \$181.54, with a mean of \$141.31 and a median of \$136.51. The mean and median adjusted sales price psf of the 15 comparables formed the basis of the Complainant's request, that the subject properties should be assessed at a rate of \$140.00 psf.
- Detailed or backup information on each sale indicated in the sales comparables chart above. The information included the 2011 Assessment Summary Report of the sold properties.
- A chart of 7 resold properties, 4 of which were used in the Complainant's Beltline sales comparables analysis above. The purpose of the chart was to analyze the resold properties in order to calculate the time adjustment factor that was used in the time-adjusted sales price psf analysis above. The sales of these properties, as analyzed, first

occurred as early as March, 2006 and as late as January, 2011. The time period between sales, as analyzed, ranged from 15 months to 50 months. Based on this analysis, the Complainant determined a time adjustment sales factor of 0.02 per month.

The Respondent provided a 243 page document entitled "Assessment Brief" that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A map of 2011 Beltline non residential land rates. The map outlined 9 assessment stratified NRZ areas within the Beltline. The zones were labeled BL1, BL2, ...BL8 and FS1. All NRZ's had an assessment base land rates of \$195 psf, with the exception of BL1, with an assessment base land rate of \$145 and BL5, with an assessment base land rate of \$155. The Respondent explained that since the subject properties are located in BL3 the properties are equitably assessed at a land rate of \$195 psf.
- A chart of "Beltline Land Sales" comparables. The chart provided information on 5 sales of properties that occurred in the Beltline community from January, 2009 to May, 2010. Although the properties were sold for their land value, 4 of the properties contained improvements. Four of the sales comparables were also used by the Complainant in his sales analysis. The chart provided the following information on these 5 sales:
 - Site areas ranged from 1,251 sf to 19,526 sf.
 - Adjusted sales prices psf ranged from \$184 to \$340, with a mean of \$241, a median of \$203 and a weighted mean of \$222.
 - After adjusting for the depreciated value of the improvement, the residual land rate psf ranged from \$151 to \$324, with a mean of \$228, a median of \$196 and a weighted mean of \$210. Based on this analysis, the Respondent concluded that the subject properties are equitably assessed at a land rate of \$195 psf.
- Detailed or backup information on each sale indicated in the sales comparables chart above.
- A chart in rebuttal to the sales comparables used by the Complainant. The Respondent was of the opinion that all sales used by the Complainant, that were transacted prior to 2009 were dated and therefore should not be used in support of calculating an equitable assessment rate psf. Two of the 2009 sales were seen as invalid sales because one was court ordered and the other involved a related party transaction. One other 2009 sale was in the Sunalta community of the Beltline district in the NRZ BL5. The Respondent stated that BL5 zoned properties were assessed using a lower assessment base land rate and are therefore not comparable to the subject. Finally, the Respondent pointed out that two of the Complainant's land sales comparables were post-facto and should also not be used in the analysis. The Respondent concluded that only 4 of the Complainant's 16 sales used in his analysis were valid and could legitimately be used in an assessment base rate analysis. Coincidentally, these 4 sales were used by the Respondent in his analysis above.
- A chart of the 4 common sales used by both parties was also graphed. The graph indicated that these 4 sales, which occurred between January, 2009 and May, 2010 (seen as an outlier by the Complainant in his analysis), trended upward or increased in sales value psf towards the valuation or assessment date of July 1, 2010.
- A chart in rebuttal to the Complainant's analysis of the 7 resold properties used to calculate a time adjustment factor. The findings of the Respondent were as follows:
 - 3 of the properties had resale events that occurred at least 3 years apart. The Respondent is of the opinion that resale events of this type are too far apart in time to make any valid conclusion about a per month time adjustment factor.
 - 1 of the properties had a resale event in which the Complainant did not give

- adequate consideration to the different state of the property from its original sale to its resale.
- 2 of the properties included court ordered resale events and were therefore invalid sales and should not be used in a time adjustment factor calculation.
 - 1 of the properties included a related party resale event and was therefore an invalid sale and should not be used in a time adjustment factor calculation.
 - 1 of the properties included a sale and resale event that involved the Calgary Municipal Land Corp. Both of these events were seen by the Respondent as invalid sales because they were not subjected to the open market.
 - A Barclay Street Real Estate Ltd marketing brochure, of an 84,496 sf land assembly, in or near Stampede Station. The marketing brochure indicated that the property was marketed at a sales rate of \$228 psf as of May 20, 2010.

The CARB finds the following with respect to this issue:

- That the Respondent successfully rebutted or refuted all but 4 of the land sales used by the Complainant in his analysis. The CARB agrees that the Complainant used some invalid sales in his analysis. In addition, the Complainant's sales that occurred prior to 2009 and the post-facto sales should not be used in the analysis to determine an equitable assessment land rate as of the valuation date.
- That the Respondent successfully rebutted or refuted the Complainant's time adjustment factor analysis. The CARB agrees that the Complainant used some invalid sales, or used sales that were dated with long periods of time before resale events. Therefore, the CARB is not convinced that these calculations can be relied upon to determine a monthly time adjustment factor.
- That the Respondent's 5 sales comparables are likely the best sales comparables in that:
 - 4 of the comparables were also used by the Complainant in his analysis, and
 - All sales are within 18 months of the valuation date.

Board's Decision:

The complaint is denied and the assessments are confirmed at \$1,360,000 and \$1,550,000 respectively.

The Respondent was successful in providing enough evidence to refute many of the Complainant's sales comparables as well as the Complainant's calculation of a monthly time adjustment factor. The use of sales involving court orders and related party transactions by the Complainant in both his sales and time adjustment analyses are in the opinion of the CARB, not acceptable in determining a fair and equitable land rate to assess the subject properties. Therefore, the CARB accepts the Respondent's 5 sales comparables as the best evidence in support of the assessed land rate.

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



Presiding Officer

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

NO.	ITEM
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.*