

**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:**

**1029139 Alberta Ltd.  
(as represented by Altus Group Ltd.), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**C. J. Griffin, PRESIDING OFFICER  
S. Rourke, MEMBER  
E. Reuther, 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:

**ROLL NUMBER: 080018906**

**LOCATION ADDRESS: 1141 – 17<sup>th</sup> Avenue SW**

**HEARING NUMBER: 63764**

**ASSESSMENT: \$2,190,000**

This complaint was heard on 17<sup>th</sup> day of November, 2011 at the office of the Assessment Review Board located at 4<sup>th</sup> Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- S. Sweeney-Cooper

Appeared on behalf of the Respondent:

- J. Toogood

**Preliminary and/or Procedural Matter(s):**

The Complainant acknowledged that there have been several CARB Decisions issued this year that uphold the base land value that has been applied to the subject property. The Complainant further acknowledges that the evidence to be introduced in this Hearing relating to this matter is the same, or very similar to the evidence presented on behalf of the Complainant(s) for those Hearings. Accordingly, the Complainant indicated that, while the evidence is before this CARB, there will be no new arguments and that it is the intention of the Complainant to concentrate their efforts on the issue of the requested 20% reduction stemming from a restrictive Land Use By-law.

**Property Description:**

The subject property is, according to the Assessment Summary Report (Exhibit C-1 pg. 7), a vacant, gravel surfaced parcel of land which is currently being utilized as a parking lot. The parcel, which is 10,737 Sq. Ft. in size, has been valued for assessment purposes as 'land value only' at a base land rate of \$195/Sq. Ft. of site area. The influences are noted as being: 1) corner lot and 2) traffic main.

**Issues:**

While there are a number of interrelated issues outlined on the Assessment Review Board Complaint form, the Complainant reduced the issues to be considered by the CARB to:

1. The base assessed land rate, at \$195/Sq. Ft. is too high and would be more indicative of market value at \$175/Sq. Ft.
2. The subject property should be granted a 20% reduction in its assessed value due to a restrictive Land Use being in place.

**Complainant's Requested Value:** \$1,503,000.

**Party Positions:**

**Complainant's Position**

The Complainant introduced (Exhibit C-1 pgs. 16 – 17) a copy of Amendment No. 92/034 Bylaw No. 94Z92 which impacts the subject site. This Bylaw stipulates, under the Heading Land Use, that:

*"The Permitted and Discretionary Uses of the C-3(23) General Commercial District of Bylaw 2P80 shall be the permitted and discretionary uses respectively excluding the following uses:*

- *Auto body and paint shops*
- *Automotive sales and rentals*
- *Automotive services*
- *Automotive specialities*
- *Drinking establishments*
- *Restaurants"*

Under the Heading Development Guidelines the Bylaw goes on to say:

- "a) *The General Rules for Commercial Districts contained is Section 33 of Bylaw 2P80 and the Permitted and Discretionary Use Rules of the C-3(23) General Commercial District shall apply unless otherwise noted below.*
- b) *Floor Area Ratio (F.A.R.)*  
*The maximum floor area ratio shall be 4.2. Any floor area totally or partially above grade level shall be included in the F.A.R. calculations. The maximum floor area ratios shall be:*
- |                            |          |                    |
|----------------------------|----------|--------------------|
| <i>Commercial (Retail)</i> | <i>=</i> | <i>1.64 F.A.R.</i> |
| <i>Office</i>              | <i>=</i> | <i>1.14 F.A.R.</i> |
| <i>Residential</i>         | <i>=</i> | <i>1.42 F.A.R.</i> |

*In any case, any density above 3 F.A.R. shall be residential use only".*

Additionally, the Complainant introduced (Exhibit C-1 pg. 18) a copy of the 2011 Beltline Influence Chart, as produced by the City Assessment department and (Exhibit C-1 pg. 19), from the same source, a copy of the 2011 Downtown Influence Chart noting that while there is no Land Use Restriction (LRU) on the former there is a 20% LRU on the latter.

Insofar as the base land value is concerned, the Complainant provided (Exhibit C-1 pg. 20) a copy of the 2011 Beltline Non Residential Land Rates which indicates the base land rate for the zone wherein the subject site is located (Beltline 6) as being \$195/Sq. Ft. Additionally, the Complainant introduced (Exhibit C-1 pgs. 21 – 46) a summary of the sales, together with a summary of each individual sale, utilized by the Assessor to establish the applied base land rate. The Complainant noted that a number of the sales utilized by the Assessor relate to improved properties and additionally, some of the sales are also Court Ordered sales which do not meet the definition of an open market transaction. The Complainant provided (Exhibit C-1 pg. 48) a summary of the sales they have used to support their request for a reduced base land rate. The summary of each sale is also provided (Exhibit C-1 pgs. 49 – 53). The Complainant acknowledges that their sales evidence is weak.

### **Respondent's Position**

The Assessor provided (Exhibit R-1 pgs. 15 -18) a summary of the sale of the subject site, dated January 14/04, which shows the parcel having been purchased for \$1,125,000 which equated to approximately \$103/Sq. Ft. The Respondent also introduced (Exhibit R-1 pgs. 24 - 88) a summary of five (5) sales utilized by the Assessor to derive the base land value applied to the subject together with the details of each of these sales. Additionally the Respondent provided a summary and the details of 3 Court Ordered sales indicating a median value of \$207/Sq. Ft. which the Assessor utilized as a check for the base land value estimate. Additionally the Respondent provided (Exhibit R-1 pgs.152 – 157) data related to three (3) vacant development sites offered for sale in the Beltline which also confirm the base land value applied to the subject.

The Respondent, through questioning, indicated that where improved sites had been utilized in support of the estimated base land value, those sales were noted as being land value only and the Assessor had made the appropriate reduction on the sales price to account for removal of

the existing improvements. Additionally, the Respondent indicated that the referenced Court Ordered sales were only utilized by the Assessor as a check for the estimated base land value.

**Board's Decision:**

The assessment is **confirmed** at \$2,190,000.

**Board Reasons:**

The CARB found, as was acknowledged by the Complainant, that their sales were indeed weak and not overtly supportive of the requested base land rate. The sales summary prepared by the Complainant equated the sales to a price per Sq. Ft. of the buildings located on the site and this was of no use to the CARB. The Respondent explained how the improvements, if any, in their sales evidence had been adjusted for and that the Court Ordered sales were simply used to confirm the findings of their sale analysis.

With regard to the requested LRU adjustment of 20% being requested by the Complainant, the CARB found that: firstly the Land Use Bylaw 92Z/034 is not overly restrictive other than for the development of automotive related businesses, an unlikely development for this part of 17<sup>th</sup> Avenue SW; secondly, no such negative influence is provided for in the Beltline and, thirdly the Complainant was unable to provide any examples of where such a factor had been granted to any Beltline located property.

It is the responsibility of the Complainant to provide the CARB with sufficient, unequivocal evidence to warrant a change in the assessed value of any given property and in this case the CARB is of the judgment that the Complainant has failed to do so.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF December 2011.

  
C.J. Griffin  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Disclosure
2. C2	Complainant's Rebuttal
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.*