

**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:

***BCIMC Realty Corporation  
(as represented by Altus Group Ltd.), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***C. J. Griffin, PRESIDING OFFICER  
H. Ang, MEMBER  
D. Julien, 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:** 068240407

**LOCATION ADDRESS:** 217 – 1<sup>st</sup> Street SW

**HEARING NUMBER:** 65067

**ASSESSMENT:** \$6,900,000.

This complaint was heard on 17<sup>th</sup> day of January 2012 at the office of the Assessment Review Board located at 4<sup>th</sup> Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- G. Kerslake
- S. Sweeny-Cooper

Appeared on behalf of the Respondent:

- D. Lidgren

**Property Description:**

The subject property is, according to the Assessment Summary Report (Exhibit C-1 pg. 12), a vacant parcel of land that is located within the downtown community of Chinatown. Currently the site is being utilized as a parking lot; however, the property has been assessed as land value only. The parcel has an assessable land area of 19,376 Sq. Ft. The assessed value of the property has been derived through application of the Sales Comparison Approach to Value. The 'influences' noted on the said Assessment Summary are: a) Transition Zone – Decrease Land Only and b) Corner Lot.

**Issues:**

While there are a number of interrelated issues outlined on the Assessment Review Board Complaint form, the Complainant (Exhibit C-1 pg. 3) reduced the issues to be considered by the CARB to:

1. The assessment of the property does not reflect the market conditions for the subject and as a result is in excess of its market value.
2. The assessment of the subject property is unfair and inequitable considering the assessment of comparable properties.

**Complainant's Requested Value:** \$4,060,000. (Exhibit C-1 pg. 3)

**Party Positions:****Complainant's Position**

The Complainant contends that the subject property has been incorrectly included within what the Assessor refers to as the DT1 (Downtown 1) Zone for assessment purposes as opposed to the Chinatown Zone which has a lower base land rate applied. The Complainant provided (Exhibit C-1 pg. 8) a copy of the original 2011 Assessment Notice sent to the property owner in January 2011. That Assessment Notice, which records the site as being in the Chinatown Zone, reports an assessed value of \$3,290,000 which stems from application of the Chinatown base land rate of \$200/Sq. Ft. together with a positive 5% corner influence and a negative 20% influence for "DC Land Use – Significant Development" resulting in the net rate of \$170/Sq. Ft. An Amended Assessment Notice (Exhibit C-1 pg. 10) in the amount of \$6,900,000 was sent to the property owner in August 2011. This Amended Notice utilizes a base land rate of \$375/Sq. Ft. together with a positive corner influence of 5% and a negative "Transition Zone Decrease" of 10%. The Amended Notice does not indicate what Assessment Zone the property is located within; however, the Complainant explained that the site was considered to be within the DT1 Zone insofar as the Amended Notice is concerned. The "Transition Zone Decrease of 10%" is, the Complainant explained, the Assessor's acknowledgement that the subject sits adjacent to the dividing line between DT1 and Chinatown and the differential in the base values between these two assessment zones cannot simply be a matter of which side of the line the property happens to be on but does recognise a transition zone. The Complainant also provided (Exhibit C-1 pg. 12) a copy of the 2011 Assessment Summary Report, noting that same identifies the subject as being within the Chinatown Zone. Additionally, the Complainant provided (Exhibit C-1 pg. 19) a copy of the City of Calgary generated "My Property Report" which also identifies the subject as being located within the Chinatown Zone. The Complainant also pointed out to the

CARB that the subject property lies directly adjacent to, on the south, The Chinese Cultural Centre and adjoining school. A copy of the 2011 Vacant Land Rates map (Exhibit C-1 pg.32), as prepared by the Assessor, clearly shows the subject site as being adjacent to the aforementioned Assessment Zone boundary and also shows how the said boundary also excludes the Chinese Cultural Centre and adjoining school from being within the Chinatown Zone.

The Complainant also maintains that the Land Use Bylaw 49Z84 affecting the subject site is much more restrictive than the general land use of the majority of the properties located within the DT1 Zone. A copy of Bylaw 49Z84 (Exhibit C-1 pgs. 90 – 97) indicates that potential uses for the subject site exclude offices and further restricts the Floor Area Ratio (FAR) to a maximum of 7.5 while the more common CM-2 Downtown Business District Land Use Guidelines (Exhibit C-1 pgs. 111- 133) does allow for office developments and provides for a maximum FAR allowance of 20 through various bonus incentives (Exhibit C-1 pg. 113). The Complainant maintains that the differences in the Land Use have a dramatic effect upon the value of the subject site when compared to the more generous allowances of the CM-2 affecting the majority of DT1 properties. The Complainant also pointed out to the CARB that the subject site is owned by the developer of the adjacent (west) Livingston office complex, a major two tower office development, and suggested that had the subject not had such a restrictive Land Use Bylaw, it would have been included in that significant Livingston development.

### **Respondent's Position**

The Respondent's Brief (Exhibit R-1) centres on the base land rate applied in the DT1 Assessment Zone and the basis from which that value is derived. Additionally, the Respondent's Brief discredits some of the sales information presented by the Complainant. The Assessor does recognise that subject site is on the border between the two Assessment Zones and that the Transition Zone allowance of 10% accounts for same. The Respondent also argued that the impact of the Land Use Bylaw (49Z84) is not as restrictive as the Complainant suggests, pointing out that the base FAR of the majority of DT1 properties is 7.5. The Respondent also pointed out to the CARB that the aforementioned Land Use Bylaw does allow for such uses as Drinking Establishments, Financial Institutions and Retail Stores (Exhibit C-1 pg. 94). Based upon the foregoing the Respondent maintains the Amended Assessment of the subject property is correct.

### **Board's Decision:**

The Complaint is allowed in part and the **assessment is reduced to: \$5,440,000.**

### **Board Reasons:**

Through questioning of both parties the CARB ascertained that the real issue relates to the location of the subject site vis-a-vis the Assessment Zone boundary and not the base land rate applied by the Assessor in those zones. The CARB is of the judgment that border between the two Assessment Zones in question is completely arbitrary and that it would appear more logical to move that boundary to the west side of both the subject site and the adjacent Chinese Cultural Centre & School. Certainly excluding the Chinese Cultural Centre from being within the Chinatown Zone does not make any sense to the CARB.

The CARB is further of the judgment that the Land Use Bylaw (49Z84) affecting the subject site is much more restrictive than the CM-2 Land Use Guidelines affecting the majority of the DT1 properties. The CARB acknowledges that the base FAR in the CM-2 Land Use Guidelines is similar to the maximum 7.5 FAR of the subject site; however, the fact remains that the opportunity to maximize the FAR up to 20 through bonuses exists in the case of the CM-2 but not for the subject site and the CARB finds this to be a significant factor that would have an equally significant impact upon the value of the subject site. The CARB notes that the Assessor appears to have originally concurred with this thinking as the original Assessment Explanation Supplement (Exhibit C-1 pg. 9) provides for a 20% discount to account for the "DC Land Use – Significant Development" allowance.

It is evident to the CARB that the location of the subject site vis-a-vis the Assessment Zone border has been problematic in the past as both parties acknowledged that the assessed value of the subject site was reduced in past years through agreement by both parties.

The CARB agrees with the Complainant that the subject site is definitely atypical of a DT1 Site in terms of the Land Use density allowances and finds that the Assessor's originally applied 20% reduction to the applied base land rate is a reasonable recognition of this fact. The CARB also recognises that the Assessor does recognise the location of the subject site as being somewhat problematic in terms of the Assessment Zone border as an allowance of 10% has been granted to account for same.

The CARB is of the judgment that a reasonable way of accounting for these value influences is to apply the aforementioned negative 20% Land Use allowance as well as the negative 10% Transition Zone allowance together with the positive 5% corner influence to the applied base land rate. The foregoing equates to a truncated value of \$5,440,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF February 2012.

  
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 (introduced but not considered overly relevant by the Complainant)
3. 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.*