

**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:

***Procura Real Estate Services Limited (as represented by Altus Group Limited),
COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
P. Charuk, MEMBER
M.P. Grace, MEMBER***

This is a complaint to the Calgary 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:	200971240
LOCATION ADDRESS:	505 - 11 Ave SW
LEGAL DESCRIPTION:	A1; 70; 18-21
HEARING NUMBER:	65079
ASSESSMENT:	\$1,720,000 (AMENDED)

[1] This complaint was heard on the 30th day of January, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

[2] Appeared on behalf of the Complainant:

- *S. Sweeny-Cooper* *Agent, Altus Group Limited*
- *D. Genereux* *Agent, Altus Group Limited*

[3] Appeared on behalf of the Respondent:

- *L. Wong* *Assessor, The City of Calgary*

[4] The following individual was present for all or part of the proceedings and did not appear on behalf of a party:

- *T. Squire* *Solicitor, The City of Calgary*

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

[5] Prior to the hearing commencing the Respondent objected to a document disclosed by the Complainant which was received after the rebuttal filing deadline. The Complainant acknowledged the information was late indicating that it only served to clarify information submitted prior to the filing deadline. The Board deemed the document to be past the deadline as imposed by regulation in Matters Relating to Assessment Complaints [MRAC] 8(2)(c) and did not permit its inclusion as regulated in MRAC 9(2).

[6] No additional objections in respect of procedural or jurisdictional matters were raised.

Background:

[7] The subject is one of three parcels, zoned Centre City Mixed Use (CC-X), before the Board controlled by Procura Real Estate Services Limited. It is located in an area of South West Calgary commonly referred to as the Beltline District. The Respondent separates all non residential areas of the city into assessment zones referred to as a Non Residential Zone [NRZ]. In the Beltline District there are nine NRZs; BL1 through BL8 and FS1. The property before us is in the BL3 NRZ. The Respondent has determined through their analyses that the BL3 NRZ and six other NRZs in this area have a vacant land value of \$195 per square foot. The exceptions are BL1 and BL5 which have vacant land values of \$145 and \$155 per square foot respectively.

[R1, p. 19]

Property Description:

[8] The subject is a vacant parcel utilized for surface parking with a land only assessment. Located at 505 11 Avenue SW; the parcel is comprised of 10,400 square feet with access to both 11 Avenue and 4 Street. The land was assessed at \$195 per square foot with no improvements and a 15% negative adjustment for reduced functionality due to its shape. The calculated assessment is \$1,723,800 which has been truncated to \$1,720,000.

[R1, p. 15]

Matters and Issues:

[9] The Complainant identified one matter on the complaint form:
Matter 3 assessment amount

[10] The grounds for the complaint indicate, among other issues, that the assessed vacant land rate inadequately reflects the market conditions as at the valuation date.

[11] The Board was charged with answering this question:
Question What is the correct value for vacant land in the BL3 NRZ?

Complainant's Requested Value: \$1,462,000 (complaint form)
\$1,237,600 (disclosure)

Findings of Fact:

[12] The Board considered all information disclosed from each party and determined the following findings of fact:

[13] Comparable sale located at 340 17 Avenue SW (BL7 NRZ), at the time of sale, had one structure of approximately 3200 square feet. The Respondent calculated a value of \$44,974 while the Complainant calculated a value of \$86,154. Both parties utilized the **Marshall Valuation Service; ©2010 Marshall & Swift / Boeckh, LLC**. [MVS]. The MVS should create near identical results regardless of who performs the calculation provided the inputs are correct. The Respondent was unaware of how their figure was derived. The Complainant provided the Board with an introduction of how the MVS calculation is performed and the inputs they utilized in their calculation. The Complainant surmised that the Respondent must have incorrectly used the MVS or incorrectly inputted the parameters to arrive at their value. The Respondent relied on information obtained from the Assessment Request for Information [ARFI] provided by the owner which indicated that the building was an unusable shell. The Complainant relied on information obtained through a third party real estate reporting service: **RealNet; © RealNet Canada Inc. (1995 – 2011)** [RN]. The RN retail transaction summary dated March 24, 2011 indicates that the property had been leased subsequent to the date of sale. Based on the conflicting information the Board placed little weight on this evidence.

[R1, pp. 21, 30-31; C1, pp. 48-49; C2, p. 7]

[14] Comparable sale located at 731 & 739 10 Avenue SW (BL3 NRZ), at the time of sale,

had two structures of varying sizes. The Respondent calculated a value of \$246,165 while the Complainant calculated a value of \$319,098. Both parties utilized MVS. The Respondent was unaware of how their figure was derived. The Complainant provided details on their calculation and surmised that the Respondent must have incorrectly used the MVS or incorrectly inputted the parameters to arrive at their value. The Board had concerns utilizing this comparable sale because of the conflicting information, and the portfolio nature of the sale. The Board placed little weight on this evidence.

[R1, p. 21; C2, p. 7]

[15] Comparable sale located at 1509 8 Street SW (BL4 NRZ), at the time of sale, had one structure of approximately 1036 square feet. Both the Respondent and the Complainant calculated a value of \$19,141 utilizing MVS. The Complainant provided information that suggested the adjacent landowner acquired the site and amalgamated the parcels. The listing information provided indicates a very short market exposure. **Multiple Listing Service® and MLS®**; ©2012 The Canadian Real Estate Association [MLS]. The Board had a concern utilizing this comparable sale because it was incomparable in size at just 12% of the subject and there is a question as whether the sale meets the test of an open market. The Board placed little weight on this evidence.

[R1, p. 21; C2, pp. 7, 72, 74]

[16] Comparable sale located at 508 15 Avenue SW (BL3 NRZ), at the time of sale, had one structure of approximately 2950 square feet. Both the Respondent and the Complainant calculated a value of \$218,179 utilizing MVS. The Board was comfortable utilizing this comparable because the parcel size is comparable with the subject and there is agreement on the value attributed to the structure. The Board placed greater weight on this evidence.

[R1, p. 21; C2, p. 7]

[17] Comparable sale located at 2207 4 Street SW (FS1 NRZ), at the time of sale, had no structure and had undergone preliminary grading for future redevelopment. The Board had a concern utilizing this comparable sale because the parcel was development ready; therefore, not comparable to the subject. In addition this comparable was a great distance removed from the subject in an NRZ named FS1 for Fourth Street South. The Respondent indicates that the FS1 NRZ is comparable to the FL3 NRZ; however, with so few sales to compare, the Board is not convinced. The Board placed little weight on this evidence.

[R1, pp. 21, 69; C2, p. 7]

[18] Comparable sale located at 1401 9 Avenue SW (BL4 NRZ), at the time of sale, had no structure. The Board was comfortable utilizing this comparable because the parcel size is comparable with the subject. The Board placed greater weight on this evidence.

[C1, pp. 30, 33]

[19] Comparable sale located at 1088 Olympic Way SE (BL1 NRZ), at the time of sale, may or may not have had a structure. The Board had a concern utilizing this comparable sale because no confirmation whether property was vacant, and it was a great distance removed from the subject in the BL1 NRZ. In addition, the details within the RN report seem to indicate a sale conducted from a municipal corporation to a private developer for the purposes of

constructing municipal infrastructure. The Board placed little weight on this evidence.

[C1, pp. 30, 34-37]

[20] Comparable sale located at 1515 12 Street SW (BL4 NRZ), at the time of sale, may or may not have had a structure. The Complainant indicates there were structures on the site with MVS calculated value of \$38,022. The Board did not assign a value to the structures. This sale is slightly *post facto*; however, the Board was comfortable utilizing this comparable because the parcel size is comparable with the subject and there were so few good comparables to choose from. The Board placed greater weight on this evidence.

[C1, pp. 30, 38-41]

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

What is the correct value for vacant land in the BL3 NRZ?

[21] The Board heard presentation from the Complainant indicating their four comparable sales were more reflective of the subject's market value versus the five comparable presented by the Respondent. The Respondent had not inspected any of the comparables at the time of the sale. The Board notes that for such a large area there is relatively few sales available for comparison purposes.

[22] The Board reviewed each comparable provided and determined these three comparables best represented the subject site.

	Comparable 1	Comparable 2	Comparable 3
Address	508 15 Ave SW	1401 9 Ave SW	1515 12 St SW
Sale Date	4-16-2010	2-07-2009	8-03-2010
Months from Valuation Date	2	16	-1
Price	\$1,200,000	\$1,585,480	\$885,000
Railway Adjustment	\$ -	\$ 279,791	\$ -
Building Value	\$218,179	\$ -	\$ -
Adjusted Sales Price	\$981,821	\$1,865,271	\$885,000
Lot Size ft ²	6,505	10,418	5,663
NRZ	BL3	BL4	BL4
Zoning	CC-COR	DC	CC-X
Sale Price per ft ²	\$151	\$179	\$156

[23] The Direct Sales Comparison Approach was utilized for vacant land. The Cost Approach was utilized to separate improvements from land value where applicable. An adjustment was made to one parcel to reflect the negative influence attributed to an abutting train track. The purchaser would have factored this negative influence into their purchase price; therefore, the Board must add this influence adjustment to the purchase price to compare it to the subject. Time adjustments have not been made because no verifiable evidence was supplied to make an appropriate adjustment.

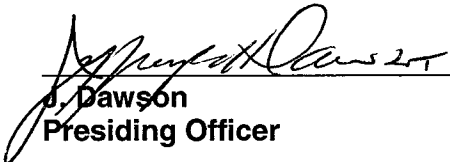
[R1, p. 20]

[24] The median of the three comparables is \$156. Given the information in front of the Board this value best reflects the market for vacant land in the BL3 NRZ during the valuation period and is fair and equitable.

Board's Decision:

[25] After considering the evidence and argument, the Board determined that the subject is to be assessed at \$156 per square foot with a negative adjustment of fifteen percent (15%) to reflect the reduced utility due to its shape. The calculated assessment is \$1,379,040 which has been truncated to \$1,379,000.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF FEBRUARY 2012.



J. Dawson
Presiding Officer

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

NO.	ITEM
1.	C1 Complainant Disclosure
2.	R1 Respondent Disclosure
3.	C2 Rebuttal 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.*

APPENDIX "B"**LEGISLATION:****Matters Relating to Assessment Complaints**

Alberta Regulation 310/2009

Disclosure of evidence

- 8(2)** *If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:*
- (c) *the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.*

Failure to disclose

- 9(2)** *A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.*

Municipal Government Board use only: Decision Identifier Codes

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Vacant Land	Cost/Sales Approach	Land Value
		Parking		