



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

Sun Life Assurance Company of Canada
(as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER
B. Bickford, BOARD MEMBER
G. Milne, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER: 201816162

LOCATION ADDRESS: 56 Freeport Cr NE

FILE NUMBER: 70460

ASSESSMENT: \$3,890,000

This complaint was heard July 2, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- G. Worsley, MNP LLP

Appeared on behalf of the Respondent:

- N. Domenie, City of Calgary Assessor

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

[1] The Complainant asked the Board to rule on the inclusion of a Response to the Rebuttal for this hearing submitted by the Respondent.

[2] The Complainant argued that Matters Relating to Assessment Complaints (MRAC) Regulation 8(2)(c) states that

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.

[3] The Complainant argued that a document submitted by the Respondent titled "City of Calgary response to rebuttal evidence submitted by MNP" (R-2) was a rebuttal to the rebuttal, and not allowed under MRAC.

[4] The Respondent pointed out that the Municipal Government Act (MGA) Section 464(1) states that

Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence.

[5] The Board decided that the intent of the regulation is to require disclosure of rebuttal evidence by the Complainant prior to the hearing so that the Respondent can prepare to respond to the rebuttal at the hearing. A written response to a rebuttal is a secondary rebuttal and is not the intent of the regulation. Therefore, document R-2 was not accepted nor referred to by the Board.

[6] A second procedural matter was agreed to by the Complainant and Respondent. Both parties agreed to hear the evidence for four appeals concurrently. Therefore, the evidence and the discussion for Roll # 201816162, 201816154, 201816147 and 201816139 will be the same. However, as the property descriptions vary, the decision for each property will vary from the rest.

Property Description:

[7] The subject property has been assessed as 5.33 Acres (A) of industrial vacant land in NE Calgary, north of Airport Trail and east of Deerfoot Trail. The property is zoned IG and no influences were included in the assessment.

Issues:

[8] Is the sale price of the property indicative of Market Value for that property?

[9] Is the value of the property influenced negatively by unpaved roads (limited access) and shape?

Complainant's Requested Value: \$3,064,750

Board's Decision:

[10] The Board reduces the assessment to \$3,060,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 Section 460.1:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or

(b) if the parcel is used for farming operations, agricultural use value.

Position of the Parties

Complainant's Position:

[11] G. Worsley (MNP), argued that the Market Value of the property should be based on the Sale Price of the property on September 9 2012, two months after the evaluation day and within the assessment year.

[12] To support this argument, the Complainant presented four sales of I-G zoned land in the Northeast area:

Address	Sale Date	Price	Price/Acre
19 Freeport Dr NE	11/29/2011	\$3,600,000 (4.72 A)	\$762,712
999-57 Ave NE	04/24/2012	\$5,500,000 (11.47A)	\$599,999*
1617-32 Ave NE	12/13/2011	\$5,701,500 (8.14 A)**	\$692,770
11805 16 St NE	07/17/2012	\$3,178,500 (4.89 A)	\$650,000
Subject Property	09/20/2012	\$16,429,614 (28.95 A)	\$567,517

*\$599,999 adjusted to remove negative influences.

**8.14 A taken from City record

[13] The Complainant went on to argue that the sales values of the four comparable properties demonstrated that prospective buyers purchased the land as an entire package, and not as two A at one price and the remainder at a lower price, keeping with the method that the City assesses I-G land in the Northeast quadrant.

[14] G. Worsley provided maps and photographs of the subject and the proposed comparables, as well as the accompanying Sales documentation, including Land Transfers. (Package C-1)

[15] The Complainant did not time adjust the sales prices.

[16] The Complainant stated that although all four subject parcels were purchased on the same day for the same price/A, these were four individual transactions and the Land Transfers are recorded separately.

[17] The Complainant did not know how the subject properties were advertised prior to their sale to one buyer. He stated that he believed the sales were arm's length and indicative of market value.

[18] G. Worsley also asked the Board to reduce the assessment of the properties because they had Limited Access (-25%) during the time the roads were not paved, and because the parcels did not have standard rectangular shapes (irregular shape).

[19] The Complainant questioned one of the two sales comparables presented by the Respondent because they were part of a land assembly. He also suggested that the properties which were in developed industrial areas would have a higher value than those in developing industrial areas because the former were already established Industrial Subdivisions, with improvements.

Respondent's Position:

[20] N. Domenie, City of Calgary assessor, argued that the entire parcel (28.95 A) was

negotiated and purchased at a single rate of \$567,500/A. He agreed that the four parcels within that 28.95 A had been subdivided and had separate titles which were registered on four separate transfer documents. However he argued that the sale price, based on one sale of 28.95 A, cannot be compared to the current assessments because the properties are assessed as four separate parcels, with four separate tax roll numbers.

[21] The Respondent also said that some of the members of the selling organization have further vested interest in the property as they are part of the proposed developer's management organization. He suggested that this vested interest would most likely have been considered in the sale price.

[22] The Respondent offered a list of Industrial Land Sales from the NE quadrant of Calgary with sale dates from 11/06/2009 to 04/24/2012. One comparable was 0.14 A, significantly smaller than the subject. Eleven of the comparables were between 0.87 A and 4.72 A and had time adjusted sale prices of \$784,753/A to \$1,113,263/A. The remaining two parcels were 9.31 A and 11.47 A and showed time adjusted sale prices of \$638,608/A and \$603,913/A respectively. Mr. Domenie suggested that the Complainant did not consider all of the properties in the City's land rate analysis, which supports the current land assessment rates.

[23] G. Domenie presented a chart which shows that in the NE quadrant of Calgary, I-G land is assessed at \$950,000/A for the first two acres of each parcel, with the remainder at \$600,000/A. In the remaining quadrants it is assessed at a flat rate/A.

[24] The Respondent also addressed the question of Influence on the properties. He presented photographs which show that 100 St which provides access from the east is paved. The remaining roads appear to have ditches and some sidewalks. Both parties agreed the roads are paved at this time, but they are not sure at what time the roads were paved.

[25] The Respondent argued that the shapes of the four lots do not limit their potential for development and the City was correct in not allowing for a reduction in assessment due to shape.

Board's Reasons for Decision:

[26] The Board found that the sale of the four properties in the assessment year took place between a knowledgeable vendor and a knowledgeable purchaser.

[27] The Board found there are individuals within the organization of the Vendor who are also within the organization of the proposed Management Team of the properties.

[28] The Purchaser of the land does not have any recorded relationship to either the Vendor or the proposed Management team. The Purchaser has been active in Calgary's Business environment for many years.

[29] The Board found there was no evidence available to demonstrate that the properties were not sold in an arm's length agreement and that the sale price is the best indicator of the market value for each parcel.

[30] The Board considered the Respondent's evidence that bare land in the Northeast quadrant of Calgary should be valued at \$950,000/A for the first two A and \$600,000 for the remaining parcel. The Board considered the table of Comparables which consisted mostly of parcels under 5 A.

[31] The Board decided that the calculations derived from the table may be equitable for developed Industrial subdivisions with established servicing and reputation, but that developing

Industrial subdivisions face more challenges to successful development that may lead to comparably lower current Market Values.

[32] The Board found that the four lots were regularly shaped and that their shape would not be an encumbrance on their development. Therefore no reduction for Shape influence is merited.

[33] The Board found that in the assessment year the lots were accessed by 100th St, which is paved, and thereafter by groomed City roads which provided reasonable access to these developing properties. Therefore no deduction for Limited Access is merited.

[34] The Board found that the Sale Price of the four properties best represents the Market Value of these properties.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF July 2013.



Lana Yakimchuk

Presiding Officer

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

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

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Other	Vacant Land	Sales Approach	Land Value