



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:

Community Natural Foods Ltd. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Helgeson, PRESIDING OFFICER

Y. Nesry, BOARD MEMBER

J. Kerrison, 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: 067244400

LOCATION ADDRESS: 1310 10 Avenue SW

FILE NUMBER: 70592

ASSESSMENT: \$2,110,000

This complaint was heard on the 11th day of July, 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:

- *W. Van Bruggen*

Appeared on behalf of the Respondent:

- *D. Zhao*

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

No procedural or jurisdictional matters were raised before the Board.

Property Description:

The subject property, 1310-10 Avenue SW, is a vacant lot of 11,325 square feet (hereinafter, "sq. ft.") located in Calgary's "Beltline". The subject property is situated next to a railroad track, and has been given a 15% negative Influence adjustment. The subject property has been designated "CC-X", pursuant to the Land Use Bylaw.

Issue: Do the Complainant's sales comparables support a reduction in the assessed land rate for the subject property?

Complainant's Requested Value: \$1,920,000

Summary of the Complainant's Position

[1] The assessment amount is incorrect. The assessment amount on the notice of assessment is not reflective of correct application of the assessment range of key factors and variables. The valuation model is not indicative of the correct relationship between the subject property's characteristics and their value in the real estate market.

[2] In preparing an assessment, the assessor must ensure the assessment is in accordance with s. 289(2) of the *Municipal Government Act* (the "Act"):

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

[3] Specifically, the assessment amount does not properly consider the location, zoning, building area, physical condition, or parking. The assessment amount is neither fair nor equitable relative to similar properties. The assessed land rate should be no more than \$176 per sq. ft.

[4] The evidence can be found at page 7 of C-1. Currently, the Respondent is valuing land in BL3, BL4, BL7, and FS1 at \$220 per sq. ft. MNP did its own analysis, and derived a land rate of \$200 per sq. ft. for these Beltline areas.

[5] Improvements have value. Three of the properties in the Complainant's analysis, 901-10 Avenue SW, 633-15 Avenue SW, and 614-10 Avenue SW, are improved. The *Appraisal of Real Estate – Third Edition*, states that the value of an improvement must be estimated and stripped off the sale price in order to arrive at the land value. A purchaser is going to consider existing improvements, because it might take some time to get development permit approvals

[6] The Respondent says the Complainant must not use a court-ordered sale, but the Respondent has relied on a sale that involved a land assembly and a motivated purchaser. To get that last piece of the puzzle, i.e., 1515-8 Street SW, surely the purchaser would pay a little more.

Summary of the Respondent's Position

[7] The issues before the Board are: (1), the assessed land rate is too high, and (2), sales support the reduction of land rate. The Respondent agrees with most of the Complainant's sales. The Respondent used the same sales as the Complainant, except for the sale that resulted from foreclosure, 1002-14 Street SW. Further, the Respondent disagrees with the Complainant's extraction methods, and the use of court ordered sales for valuation purposes.

[8] The Respondent will reveal the land sales and supporting information relied on to derive the rate of \$220 per sq. ft. used to value vacant parcels and improved properties where the income approach does not reach land value.

[9] The Complainant uses *Marshall & Swift*, as does the Respondent, but the limitation of market extractions is that they must be estimated. Valuation depends on which method of depreciation is used, and that is nowhere evident in the Complainant's material. The depreciation of \$700,000 that the Complainant used for the property at 901-10 Avenue SW is simply enormous, particularly when there is no value to the improvement. The building is in very poor condition; so poor the owner would not let the assessor into the building. The Respondent didn't bother to extract the values simply because the improvements are in such bad shape. There is going to be re-development on every antique parcel of land in the Beltline.

[10] To reduce the assessment of the subject property to the complainant's requested value would create inequity with other commercial properties in the Beltline, both improved and unimproved, and would also set the assessment well below market value as of July 1, 2012.

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

[11] In determining an appropriate assessed value for the subject property based on the

sales approach, the Respondent selected the sales of four properties. These properties are: 901-10 Avenue SW, 1031-15 Avenue SW, 633-10 Avenue SW, and 614-10 Avenue SW. The four properties and their sale values are also included in the Complainant's analysis, but the Complainant has deducted \$700,000 from the sale value of 901-10 Avenue SW, and \$90,000 from the sale value of 614-10 Avenue SW. These deductions were made on grounds that *The Appraisal of Real Estate – Third Edition* states that the value of an improvement must be estimated and "stripped off" the sale price to arrive at land value. In the result, the Complainant's sale value for 901-10 Avenue SW on a per square foot basis is \$212.55, and that of 614-10 Avenue SW is \$283.61. In comparison, the Respondent's per square foot sale values for those two properties are \$236.42 and \$284.98, respectively.

[12] The Complainant included in its analysis the sale of another property, that of 633-15 Avenue SW, a sale that is not in the Respondent's analysis. The sale price of that property had an amount stripped off from it as well, in this case \$18,000.

[13] Another property, this one at 1031-15 Avenue SW, is included in the Complainant's analysis. This property is also included in the Respondent's analysis. According to the description of the property at page 29 of C-1, 1031-15 Avenue SW has three old houses on it which are currently being rented. It is not evident why the Complainant did not strip an amount off the sale price of this property, but the fact that the Complainant left the sale price as is, resulted in a difference in values of this property between Complainant and Respondent that can be measured in pennies, i.e. \$112.82 per sq. ft., as opposed to the Respondent's \$112.61.

[14] Also included in the Complainant's analysis is 633-10 Avenue SW. This property is used for pay parking. Once again, sale values for this property on a per square foot basis vary between Respondent and Complainant, but only by pennies.

[15] Another sale of a property in the Complainant's analysis that is not included in the Respondent's analysis is 1002-14 Street SW. It is a court ordered sale, and at \$158.79 per sq. ft. it is the second lowest per square foot sale value in the Complainant's analysis, even though no amount was deducted from the sale value. Due to the forced sale the Board does not consider it an appropriate comparable.

[16] In regard to the improvement values "stripped off" the properties at 901-10 Avenue SW, 633-15 Avenue SW and 614-10 Avenue SW, the Board notes that the Complainant appears to have followed *Marshall & Swift* in deriving replacement costs for the improvements, i.e., \$5,495,000, \$195,000, and \$2,058,000 respectively, but it is not at all clear how the values that were stripped off the sale values, i.e., \$700,000, \$18,000, and \$90,000, were arrived at. That being the case, the Board has no basis on which to accept these amounts as valid deductions from sale prices. The Board finds that the Complainant's sales comparables do not support a reduction in the assessed land rate of the subject property.

[17] In closing, the Board notes that the subject property is owned by the same Complainant, Community Natural Foods Ltd., that owns 1310 10th Avenue SW (File #70596) In fact, the subject property adjoins 1310 10th Avenue SW on the west side. From the air photograph on page 2 of C-1 and the photograph from street level at page 3 of C-1, it appears that the subject property is used for parking.

[18] There is no evidence that the parking on the subject property is parking required by the Land Use Bylaw for 1310 10th Avenue SW. Had there been such evidence, the subject property

may have been accorded nominal value, as in the Court case often referred to as the "O'Connors case", cited as *908118 Alberta Ltd v Calgary (City)*, 3013 ABQB 100.

[19] Finally, the Board finds that the Respondent does not rely on the sale of 1515-8 Street SW, the "land assembly" property, in developing its assessed rate of \$220 per sq. ft.

Board's Decision:

The assessment of the subject property is confirmed at \$2,110,000.

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF October 2013.


Presiding Officer

Exhibits

C-1, Complainant's Disclosure Package.

C-2, Complainant's Revised Rebuttal Package

R-1, Respondent's Assessment Brief

<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Other	Vacant Land	Sales Approach	Land Value

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.*