

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:

1414225 Alberta Ltd.
(as represented by MNP LLP), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER
D. Morice, BOARD MEMBER
P. McKenna, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	067025601
LOCATION ADDRESS:	625 4 AV SW
LEGAL DESCRIPTION:	Plan A1; Block 17; Lots 5-8
FILE NUMBER:	70787
ASSESSMENT:	\$ 3,130,000

This complaint was heard on the 15th day of August, 2013 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- G. Worsley Agent, MNP LLP

Appeared on behalf of the Respondent:

- D. Zhao Assessor, City of Calgary
- E. Currie Assessor, City of Calgary

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

[1] There are no preliminary, procedural, or jurisdictional issues.

Property Description:

[2] The subject property is a low-rise building located in downtown Calgary's Non-Residential Zone [NRZ] of DT2 – Downtown Commercial Core. The use of the 10,824 square foot quality 'C' building is Office Space.

[3] The Direct Comparison Approach to Value is utilised by the Respondent arriving at a value of land as if vacant. The 11381 square feet of land is valued at \$310 per square foot for a total of \$3,528,100. There is a related assessment for an exempt Office Space use within the subject that lowers the assessment by \$398,000. The net truncated assessment is \$3,130,000.

[4] The related assessment is calculated on the Income Approach to Value for 2,029 square feet the following parameters:

<u>SPACE</u>	<u>RENTAL RATE</u>	<u>VACANCY ALLOWANCE</u>	<u>OPERATING COSTS ALLOWANCE</u>	<u>NON- RECOVERABLES ALLOWANCE</u>
OFFICE	\$13.00	6.75%	\$16.00	2.00%

Issues:

[5] Numerous issues have been raised by the Complainant during the complaint process. At the time of hearing two issues remained; 1) the vacant land rate, and 2) the manner in which the exempted space is calculated.

Complainant's Requested Value: \$2,670,000

Board's Decision:

[6] The Board found the assessment is incorrect and changed the value to \$2,670,000.

Legislative Authority, Requirements and Considerations:

The Municipal Government Act [the Act]

Chapter M-26, Section 460, Revised Statutes of Alberta 2000

Decisions of assessment review board

467(1) *An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.*

Position of the Parties

Complainant's Position:

[7] The Complainant argues that the subject is an income producing property and not vacant land as assessed (C1 p. 2).

[8] The Complainant further states the exempt tenant occupies 2,029 square feet of the 10,824 square foot building which equates to 18.75%. Meanwhile, the Respondent exempted \$398,000 of a total \$3,528,110 assessment or 11%. With no other revenue on-site, the exempt space should benefit from an 18.75% exemption (C1 p. 19).

[9] The Complainant provided comparable sales of vacant land to show that \$235 per square foot is the correct value for vacant land (C1 pp. 22-31). The Complainant provided two recent CARB decisions to show that \$289 per square foot is the correct value for vacant DT2 land and altered the request to \$289 per square foot.

[10] The Complainant asked that the new calculation at \$289 per square foot be discounted by 18.75% to account for the exempt space arriving at a final conclusion of value of \$2,670,000.

Respondent's Position:

[11] The Respondent provided pages of dialogue and previous Board decisions to explain why the office building is assessed as land only (R1 pp. 4-12).

[12] The Respondent disclosed information regarding their analysis of vacant land sales in the DT2 market area which provides the conclusion of \$310 per square foot (R1 pp. 21-75).

[13] The Respondent explained that the exempt portion is calculated on the Income Approach to Value and not on the vacant land Direct Comparison Approach to Value; therefore arriving at an exempt portion of \$398,000. The Respondent further explained that the exempt area is not under complaint and cannot be changed.

Complainant's Rebuttal Position:

[14] The Complainant provided information to show that one of the sales relied on by the Respondent in their vacant land rate analysis is not a typical transaction and should not be used (C2). Removing that sale equates to a value of \$289 per square foot, a rate confirmed by several Boards.

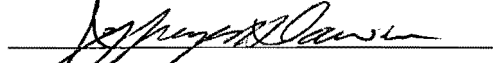
Board's Reasons for Decision:

[15] The Board found the correct value of vacant land in DT2 is \$289 per square foot. The

sale at 919 5 AV SW is not exhibiting characteristics typical of a open market transaction between unrelated parties.

[16] The Board finds the correct value of the subject property after removing exempt space is \$2,670,000.

DATED AT THE CITY OF CALGARY THIS 24th DAY OF September 2013.



Jeffrey 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.*

Municipal Government Board use only: Decision Identifier Codes				
Complaint Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Vacant Land	Sales Approach	Market Rate