

## **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:**

**PBA Land Development Ltd. (*as represented by MNP LLP*), COMPLAINANT**

**and**

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

**before:**

***M. Axworthy, PRESIDING OFFICER***

***P. Pask, BOARD MEMBER***

***I. Fraser, 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:** See Appendix A

**LOCATION ADDRESS:** See Appendix A

**FILE NUMBER:** See Appendix A

**ASSESSMENT:** See Appendix A

The complaints outlined in Appendix A were consolidated and heard together on the 8th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6, with CARB 70830-P-2013 as the Lead File.

Appeared on behalf of the Complainant:

- *J. Langelaar (MNP LLP)*
- *Y. Lau (MNP LLP)*

Appeared on behalf of the Respondent:

- *L. Wong (City of Calgary)*

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

[1] No procedural or jurisdictional matters were raised.

**Property Description:**

[2]

Address	Lot size square foot (sq. ft.)	Current use	Zoning
730 4 AV SW	3,254	Surface parking lot	DC 93D2008
736 4 AV SW	6,509	Surface parking lot	DC 93D2008
732 4 AV SW	3,254	Surface parking lot	DC 93D2008
728 4 AV SW	3,255	Surface parking lot	DC 93D2008
726 4 AV SW	3,255	Surface parking lot	DC 93D2008
724 4 AV SW	4,298	Surface parking lot	DC 93D2008

**Issues:**

[3] What is the correct market assessment for the subject properties?

[4] Other matters and issues were raised in the complaint forms filed with the Assessment Review Board (ARB), on March 1, 2013; however, the only issue that the parties sought to have the Board address at the July 8, 2013 hearing is the one referenced above.

**Complainant's Requested Value: See Appendix A**

**Board's Decision:**

[5] The complaints are denied and the assessments are confirmed as indicated in Appendix B.

**Position of the Parties****Complainant's Position:**

- [6] The assessed vacant land rate for the DT2E portion of the Downtown (\$310 per sq. ft.) is too high and should be \$250-\$260 per square foot (sq. ft.). In support of the requested reduction the Complainant provided the following market transactions for improved properties and applied influence adjustments to make them more comparable to the unimproved subject.

Index	Address	Date sold	Price	Influence adjust.	Adjusted price	Lot size (sq. ft.)	Adj. price /sq. ft.	Zoning
C1	300 6 AV SE	29-Jun-11	\$13,700,000	-5%	\$13,015,000	62,451	\$208.40	DC 86D2008
C2	1105 7 AV SW	7-Nov-11	\$2,000,000	10%	\$2,200,000	18,492	\$102.75	DC47Z92
C3	617 8 AV SW	15-Nov-11	\$1,675,000	0%	\$1,675,000	6,172	\$271.39	CM-2
C4	718 8 AV SW	24-Jan-12	\$2,000,000	0%	\$2,000,000	6,506	\$307.41	CM-2
C5	604 8 AV SW	18-Sep-12	\$2,000,000	-15%	\$1,700,000	6,504	\$261.38	CM-2

- [7] There are very few sales of vacant land in the Downtown that can be used as comparables to assist in establishing market value for the subject property. The Complainant asserted that the value of the improvements on properties indexed C1-C5 should be discounted to establish residual land values. The Complainant outlined three approaches that could be used to discount the value of the improvements: adjust for demolition costs; the extraction method to value; and the land residual method to value. The Complainant's preferred approach is the extraction method as described in the Appraisal Institute of Canada's, Appraisal of Real Estate, Second Canadian Edition and as employed by The City of Calgary in the assessment of Beltline properties in the 2012 assessment cycle.
- [8] The Complainant noted that the comparable properties referenced in paragraph [6] above are regulated by 3 different land use bylaws (zoning) and a fourth bylaw applies to the subject property:

Index	Address	Zoning	Summary of allowable Floor Area Ratio (FAR)
C1	300 6 AV SE	DC 86Z2008	Similar to CM-2 (see C3 below)
C2	1105 7 AV SW	DC47Z92	Max. 3 FAR commercial with potential for .5 FAR for purpose built auditoria, cinemas and theatres Max. 7 FAR residential, less any commercial density provided

C3	617 8 AV SW	CM-2	Base of 7 FAR where all Group A features have been provided. Up to 15 FAR with Group B features Up to 20 FAR with Group C features
C4	718 8 AV SW	CM-2	See above
C5	604 8 AV SW	CM-2	See above
<u>Subject</u>	724-736 4 AV SW	DC93D2008	5 FAR with provision of all Group A features  Additional 1.0 FAR through contribution to Eau Claire Improvement Fund  Additional 2 FAR commercial through Group B features

[9] The Complainant argued that the land use rules and restrictions that apply to a property can dramatically affect its value, in particular the allowable gross floor area (FAR), and must be factored into any assessment of market value [pp.9-10, C-1]. The Complainant argued that the subject property should receive a -25% negative influence adjustment for restrictive Direct Control (DC) zoning as per the City of Calgary Adjustment Table (p.11, C-1).

[10] The Complainant disputed the Respondent's inclusion of the November 30, 2010 sale of Index R1 (919 5 AV SW) at \$435 per sq. ft., noting that the sale is questionable as the property has been sold five times since 2006 and has recently transferred back to the original owners.

**Respondent's Position:**

[11] In support of its position, the Respondent provided the following market sales, two of which (Index R2 and R3), are common to both parties. Index R1 was a sale of land only [p.31 R-1].

Index	Address	Date sold	Influence Adjust.	Sale price	Lot size (sq. ft.)	Price/sq. ft.	Zoning
R1	919 5 AV SW	30-Nov-10	N/A	\$4,250,000	9,764	\$435.27	CM-2
R2	617 8 AV SW	15-Nov-11	N/A	\$1,675,000	6,172	\$271.39	CM-2
R3	718 8 AV SW	24-Jan-12	N/A	\$2,000,000	6,506	\$307.41	CM-2

[12] The Respondent disagreed with the Complainant's assertion that the value of improvements should be discounted to establish residual land value. The Respondent noted that the demolition cost of improvements was generally a consideration in the purchase price and the extraction method to value was not supported in 2012 CARB hearings.


[13] The Respondent objected to the inclusion of Index C1, located in land rate zone MUNI, and Index C2, located in land rate zone DTW, as they are located in different land rate zones than the subject (DT2E). The Respondent also objected to the inclusion of Index C5 as it is a *post facto* sale dated September 18, 2012.

- [14] The Respondent indicated that in The City's experience, location is the critical factor that drives downtown land values (hence the different downtown land rate zones as per the map in p.22, R-1. The Respondent stated that while the CM-2 land use district allowed up to 20 FAR, any development above 7 FAR must provide "bonus features" from an approved list of items to be eligible for additional gross floor area. There are costs to providing these bonus features and their approval is at the discretion of the Development Authority.
- [15] The Respondent indicated that The City did not apply the -25% Land Use Restriction adjustment [p.11, C-1] to the subject properties and did not believe that such an adjustment was warranted.

**Board's Reasons for Decision:**

- [16] The Board agrees with the Respondent that neither Index C1, C2 nor C5 should be included and agreed with the Complainant that the sale of R1 is questionable and should not be included.
- [17] The Board notes that the parties do not agree on whether improvements for the comparable properties should be discounted to arrive at a residual land value. The Board could find no evidence to support the Complainant's position that improvements should be discounted to arrive at residual land value and relied on the sale prices with no discount for improvements to establish market value.
- [18] The Complainant argued that as a result of the DC zoning (Bylaw 96D2008) which allowed a maximum of 8 FAR (compared to the maximum 20 FAR allowed in the CM-2 district), the subject properties suffered from a Land Use Restriction and a -25% reduction in assessed value should be applied. The Board finds the Complainant did not provide any market evidence to show that this difference in value exists. The Board also notes that The City of Calgary Adjustment Table referenced on p. 11 of C-1 does not correspond with the City's 2013 Downtown Land Assessed Base Rate Adjustments on p.130 of C-2 which does not include an adjustment for a Land Use Restriction in the Downtown.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.

  
M. Axworthy, Presiding Officer

**APPENDIX "A"****Property particulars and Complainant's requested value:**

Roll Number	Address	File #	Assessment	Requested value
067020503	730 4 AV SW	70830	\$1,000,000	\$748,000
067020701	736 4 AV SW	70827	\$2,010,000	\$1,490,000
067020602	732 4 AV SW	70828	\$1,000,000	\$748,000
067020404	728 4 AV SW	70831	\$1,000,000	\$748,500
067020305	726 4 AV SW	70832	\$1,000,000	\$748,500
067020206	724 4 AV SW	70836	\$1,330,000	\$988,500

**APPENDIX "B"****Board's decision:**

Address	File #	Assessment	Requested value	Board's decision	Confirmed Assessment
730 4 AV SW	70830	\$1,000,000	\$748,000	Confirmed	\$1,000,000
736 4 AV SW	70827	\$2,010,000	\$1,490,000	Confirmed	\$2,010,000
732 4 AV SW	70828	\$1,000,000	\$748,000	Confirmed	\$1,000,000
728 4 AV SW	70831	\$1,000,000	\$748,500	Confirmed	\$1,000,000
726 4 AV SW	70832	\$1,000,000	\$748,500	Confirmed	\$1,000,000
724 4 AV SW	70836	\$1,330,000	\$988,500	Confirmed	\$1,330,000

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

<b>NO.</b>	<b>ITEM</b>
1. C1 and C2	Complainant Disclosure
2. C3	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.*