

## **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:**

**1402801 ALBERTA LTD.**  
**(as represented by MNP LLP), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**Earl K. Williams, PRESIDING OFFICER**  
**K. B. Bickford, MEMBER**  
**A. Maciag, 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: 067073908**

**LOCATION ADDRESS: 604 8 AV SW**

**FILE NUMBER: 71206**

**ASSESSMENT: \$2,310,000**

This complaint was heard on 28<sup>th</sup> day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- G. Worsely Agent, MNP LLP

Appeared on behalf of the Respondent:

- D. Grandbois Assessor, The City of Calgary

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

[1] The parties identified to the Board that the evidence and arguments to be presented in respect of the hearing on land value in respect of File # 71206 for Property Roll # 067073908 will be carried forward to the other files to be heard on this day. The Board found this to be an appropriate approach to the matters at hand.

[2] No additional Procedural or Jurisdictional Matters were raised by the parties.

**Property Description:**

[3] The subject property at 604 8 AV SW is a 3,630 square foot (sq. ft.) building on 0.15 acre (6,504 sq. ft.) of land with a 1954 approximate year of construction (ayoc), assigned a B quality rating with the Property Use: Commercial and Sub Property Use: CS2250 Retail/Marginal, in the Downtown Commercial Core in Downtown Land Zone 2 East (DT2 East) and Land Use CM-2 (pre1P2007).

[4] The assessment was prepared on the Sales Approach and valued as Land Only using the DT2 East land rate of \$310 psf which is adjusted as required for the influences to recognize corner lot (+5%) and transition zone increase of +10%.

**Issues:**

[5] Should the land rate for DT2 East be reduced from \$310 psf to \$266 psf or is the July 27, 2012 sale of the subject property the best evidence of the market?

**Complainant's Requested Value: \$1,990,000**

**Board's Decision:**

[6] Based on the evidence and arguments presented, the Board supports that the July 2012 sale price is reflective of the market.

[7] The assessment is reduced to \$2,000,000.

**Position of the Parties**

[8] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[9] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the 2013 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach, the MNP Comparable Market Transaction analysis with supporting documentation, Commercial Edge report and the Downtown Vacant Land Base Rate Map. In support of the land rate the evidence included a number of land sale analysis with supporting documentation. In support of its position the evidence included excerpts from legislation, technical documents, as well as decisions of the Alberta Court of Queen's Bench and Board decisions.

[10] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the 2013 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach, the Assessment Request for Information, the RealNet Retail Transaction Summary, and the Downtown Vacant Land Base Rate Map, 2013 Downtown Land Rates by Zone with supporting documentation by zone, and the completed City of Calgary Property Sale Request for Information. In support of the land rate the evidence included a number of land sale analysis with supporting documentation. Also, in support of their position the evidence included excerpts from legislation, technical documents, as well as Board decisions.

[11] Both parties placed technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of the document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[12] As noted above, both parties placed before this Board a number of Alberta Court of Queen's Bench, Assessment Review Board and Municipal Government Board decisions in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

**Issue – Land Rate****Complainant's Position:**

[13] The Complainant advised the Board that the property sold on July 27, 2012 for \$2,000,000. Supporting documentation for this arm's length transaction was provided on pages 20-28 of Exhibit C1. The Complainant argued that the sale price of a property is the best indicator of value which supports the assessed value.

[14] As further support, the Complainant reviewed 4 comparable market transactions reported during the period June 29, 2011 to July 27, 2012. The table on page 32 of Exhibit C1 presented details on each of the 4 transactions all of which are improved. The subject property, with a transaction date of July 27, 2012 which is 27 days, after the valuation date, is included in the sample.

[15] The following table presents the details on the 4 transactions:

Address	300 6 Ave SE	604 8 Ave SW	718 8 Ave SW	617 8 Ave SW
Date Sold	29 June 2011	27 July 2012	24 Jan. 2012	15 Nov. 2011
Price	\$13,700,000	\$2,000,000	\$2,000,000	\$1,675,000
Influence Adjustment	-5%	-15%	0%	0%
Adjusted sale price	\$13,015,000	\$1,700,000	\$2,000,000	\$1,675,000
Lot size (sq. ft.)	62,451	6,504	6,506	6,172
Price/per square foot (psf)	\$208.40	\$261.38	\$307.41	\$271.39
Zoning/Bylaw Number	DC/86D2008	CM-2/1P2007	CM-2/1P2007	CM-2/1P2007

[16] As each of the comparable transactions are improved properties, the Complainant prepared three additional approaches to value:

- 1) Extraction Method - Sale Price adjusted for Cost of Improvements
- 2) Land Residual Method – Sale Price adjusted for interim Income Stream
- 3) Adjusted Sale Price Comparable – original sale price adjusted only for influences and location differences

Details on each analysis are provided on pages 33-40 of Exhibit C1.

[17] The table on page 40 of Exhibit C1 presented details on each comparable as well as the average and median sale price (\$ psf) determined by each approach outlined in paragraph [16]. The following table presents the average and median sale price (\$ psf) as determined by each approach:

Approach	Average	Median
Extraction Method	\$229.45	\$233.47
Land Residual Method	\$216.12	\$219.62
Adjusted Sale Price Comparable	\$261.65	\$265.78

[18] The Complainant concluded that the most reasonable rate obtained from the market transactions is the Adjusted Sale Price which was \$265.78 psf rounded to \$266.00 psf. When this price is adjusted for the corner lot and the Transition Zone influence adjustment a total of +15% the adjusted rate was \$306 psf. Based on the \$306 psf land rate applied to the area of 6,504 sq. ft. the requested assessment of \$1,990,000 is supported.

[19] In summary, the Complainant argued that the analysis of the comparables yields a requested rate of \$266 psf which when adjusted is \$306 psf. Based on the lot size of 6,504 sq.ft. the requested assessment is \$1,990,000.

#### **Respondent's Position:**

[20] The Respondent reviewed the Complainant's comparables and argued:

- 1) The subject property should be excluded from the analysis as the transaction date is July 27, 2012 which makes this a post facto transaction; and
- 2) The comparable at 300 6 Ave SE should be excluded as this property is in DT3 which is a peripheral location within the downtown market.

The exclusion of the above 2 comparables reduces the sample to two transactions which are both in DT2 East, have CM2 zoning and are in close proximity to the subject (page 48 Exhibit R1). Further the lot sizes of 6,172 and 6,506 sq. ft. compare favourably with the subject lot size of 6,504 sq. ft. Based on the 2 transactions the mean and median price is \$289.40 psf.

[21] As further support, the Respondent reviewed details on the City of Calgary 2013 Downtown Vacant Land Zones, 2013 DT Land Rates and 2013 DT Land Influences presented on pages 63-68 Exhibit R1. The DT2 East land rate is reported as \$310 psf prior to any adjustments for influences.

[22] The DT2 East rate is based on a sample of 3 transactions in the period November 2010 to January 2012. The sample included the 2 comparables in the Complainant's sample as well as the transaction at 919 5 Ave SW which is a land only transaction in the DT2 East zone. This transaction compares favourably with the two transactions in the Complainant's sample on the basis of lot size and zoning. Details on the analysis and supporting documentation which is the basis for the determination of the DT2 East rate of \$310 psf is provided on pages 115-163 of Exhibit R1.

[23] In summary, the Respondent argued that the DT2 East land rate is based on properties comparable to the subject. The subject property location is a corner lot and in the transition zone, bordering DT1 and DT2E, which translates into a 15% influence adjustment. The application of the influence adjustments to the base rate of \$310 psf supports the current assessment.

**Board's Reasons for Decision:**

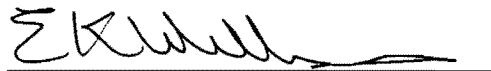
[24] Following an examination of the evidence and arguments the Board determined that the sale of the subject property on July 27, 2012 is a basis for establishing the assessed value.

[25] Although the transaction is after the valuation date by a period of 27 days, it is still in the assessment year 2012. Further the Municipal Government Act R.S.A.2000, states:

*"market value" means the amount that a property, as defined in section 284(1) (r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer."*

Additionally, decisions of the Court of Queen's Bench of Alberta (ABQB) support the use of the sale price of a property as the best indicator of value.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF November 2013.



**Earl K. Williams**  
**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure Subject Property Disclosure
2. C2	Complainant Rebuttal
2. 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.*

**FOR ADMINISTRATIVE USE**

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Retail	Stand Alone	Sales Approach	Land Value