



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:

***801 Seventh Inc. and Brown Cottage & Clinic Inc.
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. J. Griffin, PRESIDING OFFICER
A. Maciag, BOARD MEMBER
J. Joseph, BOARD MEMBER***

This is a complaint to the 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(S):	067057208 / 067071001 / 067071100 & 067227504
LOCATION ADDRESSES:	667 –7 Str. SW / 700 – 8 Str. SW / 835 –7 Ave. SW & 831 –7 Ave. SW
FILE NUMBER:	71455 (also incorporating #71463, #71465 & #71534)
ASSESSMENTS:	\$4,900,000. / \$1,870,000. / \$1,610,000. & \$1,510,000. respectively)

This complaint was heard on the 26th day of June, 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:

- D. Hamilton

Appeared on behalf of the Respondent:

- D. Zhao

Board's Decision in Respect of Procedural Matters:

The Complaint requested that all four of the properties which are the subject of this Hearing be heard in a single Hearing as the properties comprise a land assembly and all deal with identical issues and the evidence is also common. The Respondent, while having prepared a similar brief for each of the property addresses, had no objection to a single Hearing. Accordingly, the CARB agreed to hear the Complaint(s) for all four of the properties in one single Hearing.

Property Description:

[1] All four of the subject properties are considered, for assessment purposes, to be vacant land parcels and all four have accordingly been valued as land only through application of the Direct Comparison (Sales) Approach to Value. The combined parcel occupies approximately 2/3 of the block on the south side of 7th Avenue W between 8th Street SW to the west and 7th Street SW to the east. Seventh Avenue SW, within the downtown core area, is commonly referred to as 'transit avenue' as it is the route for the Light Rail Transit (LRT) System and there is very restricted traffic flow with no public vehicles allowed.

Issue(s):

[2] The Complainant maintains that the current assessments do not reflect the Market Value of the property as at July 1, 2012. All four of the properties have been valued, for assessment purposes, through application of the Direct Comparison (Sales) Approach. The Assessor has, based upon the analysis of three sales, derived a base land rate of \$310/Sq. Ft. of site area. The Complainant has also applied the Direct Comparison Approach and, having analysed two sales, which were also analysed by the Assessor, have derived an estimate of \$289/Sq. Ft. of site area which they maintain is more indicative of Market Value and forms the basis for their request.

Current Assessment(s):

- [3]
- | |
|----------------------------------|
| \$ 4,900,000. (Roll # 067057208) |
| \$ 1,870,000. (Roll # 067071001) |
| \$ 1,610,000. (Roll # 067071100) |
| \$ 1,510,000. (Roll # 067227504) |

Complainant's Requested Value:

- [4] Revised at the Hearing (Exhibit C2) \$ 4,570,000. (Roll # 067057208)
\$ 1,740,000. (Roll # 067071001)
\$ 1,500,000. (Roll # 067071100)
\$ 1,400,000. (Roll # 067227504)

Board's Decision:

- [5] The assessments are **reduced** to: \$ 4,570,000. (Roll # 067057208)
\$ 1,740,000. (Roll # 067071001)
\$ 1,500,000. (Roll # 067071100)
\$ 1,400,000. (Roll # 067227504)

Position of the Parties:Complainant's Position:

[6] The Complainant presented (Exhibit C1 pg. 45) a summary of two sales comparables which are located in the DT2 East assessment zone, wherein the subject lands are located. The Complainant pointed out to the CARB that these same two sales have also been utilized by the Assessor for comparative purposes. These two parcels were reportedly traded on the basis of land value only. One of the sales was recorded in November of 2011 while the other was recorded approximately two months later in January of 2012. The first sale traded at the equivalent of \$271.39/Sq. Ft. of site area while the second traded at the equivalent of \$307.41/Sq. Ft. of site area. The mean of these two sales equates to \$289/Sq. Ft. of site area and this forms the basis for the requested assessments.

Respondent's Position:

[7] The Respondent introduced (Exhibit R1 pg. 37) their *2013 Downtown "DT2 East" Land Sales* chart which summarizes three sales, two of which are identical to those presented by the Complainant. This study incorporates an additional sale of a property located at 919 – 5th Avenue SW which reportedly sold for land value only in November of 2010 for the equivalent of \$435.27/Sq. Ft. of site area. The median of the three sales is \$307.41/Sq. Ft. which the Assessor has rounded to \$310/Sq. Ft. in valuing the subject parcels. The Respondent also pointed out to the CARB that the median sale is also the most recent sale and would, accordingly, be given more weight in the decision process.

Complainant's Rebuttal:

[9] The Complainant contends that the 3rd sale utilized by the Assessor, 919 – 5th Ave. SW, is not an arms-length transaction and it should not have been given consideration by the Assessor. The Complainant introduced (Exhibit C3 pgs.10 – 75) documentation pertaining to the aforementioned sale as well as 5 earlier sales of the same property, three of which are identified as having been non arms-length as the parties involved were related and one sale

was as the result of a Court Order. The Purchaser of the Court Ordered sale was the Mortgagor of the property under the previous ownership. This same owner and Mortgagor then sold the parcel in the most recent sale, that being the one analyzed by the Assessor, to a new purchaser but a 100% vendor financing was also a part of the transaction. It is the position of the Complainant that the sale is certainly 'tainted' by the 100% vendor supplied financing and the fact that this vendor was also the previous Mortgagor of the property.

Board's Decision Reasons:

[10] The Board agrees with the Complainant that the third sale, 919 – 5th Ave. SW, is evidently not a typical open market transaction and that the reported selling price may very well have been influenced as a result. As a result of the foregoing the CARB puts no weight on this sale. Having removed this 3rd sale from consideration results in the two sales that were utilized by both parties. The CARB does not agree with the Respondent that the latest sale should be given more weight in determining the market value as the other sale was recorded only two months prior. The mean selling price for these two sales is the \$289/Sq. Ft. of site area that forms the basis for the requested assessments by the Complainant and the CARB agrees with this analysis.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF July 2013.


C. J. Griffin

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Revised Requested Assessments
3. C3	Complainant's Rebuttal
4. 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 MGB Administrative Use Only

Municipality: Calgary Decision No. 71455/P-2013 Roll Nos: **067057208 / 067071001 /
067071100 & 067227504**

<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
Commercial	Vacant Land	M.V.	Sales Utilized