



## **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:**

***612961 Alberta Ltd. (as represented by Colliers International Realty Advisors Inc.),***  
**COMPLAINANT**

**and**

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

**before:**

***K. D. Kelly, PRESIDING OFFICER***  
***D. Morice BOARD MEMBER***  
***K. Farn, 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:

|                            |  |
|----------------------------|--|
| <b>ROLL NUMBERS:</b>       | <b>068054006</b><br><b>068054055</b>         |
| <b>LOCATION ADDRESSES:</b> | <b>304 - 6 AV SW</b><br><b>310 - 6 AV SW</b> |
| <b>FILE NUMBERS:</b>       | <b>71558</b><br><b>71560</b>                 |
| <b>ASSESSMENTS:</b>        | <b>\$13,030,000</b><br><b>\$4,960,000</b>    |

This complaint was heard on 13<sup>th</sup> day of June, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *C. Hartley - Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *D. Grandbois - Assessor, City of Calgary*

**REGARDING BREVITY:**

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] The Complainant clarified that these two properties are contiguous vacant land parcels, and each is owned by the same company and used for surface parking. Therefore he requested that the assessment complaints for these two properties be heard together, since he was presenting one common argument, applicable to both sites.

[3] The Respondent accepted this procedure, and the Board therefore allowed the hearing to proceed based upon this process.

**Property Description:**

[4] The subject property in File # 71558, located at 304 – 6 AV SW, is a 34,980 Square Foot (SF) or 0.80 Acre (Ac) vacant land parcel used as a commercial parking lot in the Downtown Commercial Core (DT1) district of Calgary. The parcel is a corner lot and is assessed at \$355 per SF, the typical value used for all similar parcels in DT1. It is also assessed an additional 5% for the corner lot influence. The site is assessed at \$13,030,000.

[5] The subject property in File # 71560, located at 310 – 6 AV SW, is a 13,998 Square Foot (SF) or 0.32 Acre (Ac) vacant land parcel used as a commercial parking lot in the Downtown Commercial Core (DT1) district of Calgary. The parcel is an interior lot on the block and assessed at \$355 per SF, the typical value used for all similar parcels in DT1. The site is assessed at \$4,960,000.

**Issue:**

[6] What is the correct per square foot land value to be applied to the subjects to calculate their respective assessments ?

**Complainant's Requested Value: \$310 per square foot.**

[7] The requested assessment for File # 71558, property located at 304 – 6 AV SW is \$10,840,000.

[8] The requested assessment for File # 71560, property located at 310 – 6 AV SW is \$4,330,000.

**Board's Decisions:**

[9] The Board confirmed the assessments as follows:

- a) File # 71558, property located at 304 – 6 AV SW confirmed at \$13,030,000.
- b) File # 71560, property located at 310 – 6 AV SW confirmed at \$4,960,000.

**Legislative Authority, Requirements and Considerations:**

[10] Under the ***Municipal Government Act*** (MGA), the Board cannot alter an assessment which is fair and equitable.

[11] MGA 467 (3) states:

*"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration*

- (a) the valuation and other standards set out in the regulations,*
- (b) the procedures set out in the regulations; and*
- (c) the assessments of similar property or businesses in the same municipality."*

[12] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

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

[13] The Complainant presented his evidence package C-1 and argued that a market sale of a property at 515 MacLeod Trail SE (site of the former Board of Education building) is the "best" and most comparable property to which the subjects should be compared for purposes of determining their respective assessed values. He noted that while the subjects are in market zone "Downtown One" (DT1), and the 515 MacLeod Trail site is in the adjacent market zone "Municipal" (Muni), the subjects are just 3 blocks apart. He argued therefore that the sale of 515 MacLeod Trail SE is an excellent comparable, and a reliable indicator of current land values in the area and therefore for the subjects.

[14] The Complainant argued that because there has been a dearth of sales of vacant land parcels in DT1, it is necessary to examine recent vacant land sales from various downtown economic zones to

determine appropriate land values. On page 13 of C-1 the Complainant provided the following matrix containing three market sales as follows:

| Address                      | Sale price (\$) | Size (Ac) | Size (SF) | \$/SF  | Sale date |
|------------------------------|-----------------|-----------|-----------|--------|-----------|
| 515 MacLeod Trail SW         | 36,500,000      | 2.7       | 117,612   | 310.34 | 6/21/2012 |
| 718 - 8 <sup>th</sup> AV SW  | 2,000,000       | 0.15      | 6,534     | 306.09 | 1/24/2012 |
| 1105 - 7 <sup>th</sup> AV SW | 2,000,000       | 0.4       | 17,424    | 114.78 | 11/7/2011 |

[15] The Complainant provided the RealNet sales data sheets for all three of the sales. With respect to 515 MacLeod Trail specifically however, and focusing on page 15 of C-1, he proceeded to highlight certain statements in the RealNet document referencing the inherent value of the site for re-development purposes. He noted that its Direct Control zoning “encourages” commercial, office, residential, or mixed uses while preserving open space and a significant piece of public artwork – the “Family of Man Statue”.

The Complainant also referenced the following paragraph from the “General Notes” section of the RealNet report for the 515 MacLeod Trail site:

“The site includes the park at the western edge of the property. A city bylaw prevents the space from being redeveloped and the Family of Man statue set, originally part of Britain’s pavilion at Expo 67, will remain. The protection of the park and statues was secured by the City of Calgary in 2010. In return the city will allow 100 per cent of needed parking to be built at the site, double what is normally permitted. The Calgary Board of Education has sought relocation of the statues to its present home however the city has refused so far, but appears ready to discuss and possibly negotiate the matter further.”

[16] The Complainant argued that the unique and positive development and re-development characteristics of the 515 MacLeod Trail site significantly increase its marketable value, and hence comparability to the subjects. And moreover, because it is only three blocks east of the subjects, it is an excellent market sale comparable based on proximity alone. He noted that just two blocks west of this site is Bow Valley Square, and the Suncor twin-tower office complex. The Complainant further argued that the 515 MacLeod Trail site is just one block east of the new landmark Bow office tower, and therefore its prestigious location in such close proximity to the Bow, significantly raises its profile as a highly desired re-development site. At \$310 per SF, he considered the sale of 515 MacLeod Trail to be strongly indicative of value for the subjects than the assessed \$355 per SF.

[17] The Complainant referenced the specific property location and marketing characteristics of the two remaining market sales in his property comparables matrix in [14] above. He noted that while they were located several city blocks west and south of the subject in other city-defined market zones, nevertheless he considered that they provided a general indication that lower property values are more prevalent in the downtown area than the City might realize because they seem to be using “dated” sales in their analysis of the market. In general therefore, he concluded from analysis of his three market sale examples, that the subjects are over-assessed.

[18] The Complainant argued that his analysis of the market has led him to conclude that a buyer’s “motivation” plays an important role in determining a price paid for property in any given situation. He suggested that where a property is purchased, and may be the last parcel required to complete an assembly of parcels to accommodate a specific development, then it is likely that a purchaser would, or could “overpay” for that parcel. It was his view that it was possible that certain sales used by the Respondent to calculate market zone values, were “motivated” purchases which would skew the results of the City’s analysis to the “high side” thereby leading to artificially elevated assessments.

[19] In his rebuttal document C-2, and in support of his argument that buyer/seller “motivation” can influence market sales, the Complainant provided excerpts of selected industry publications which referenced the new Bow Tower. He also provided a number of Municipal Government Board and Calgary Composite Assessment Review Board decisions referencing “motivated sales”. While several official Board decisions were provided, the Complainant directed the Board’s attention specifically to the following;

- a) [2010] A.M.G.B.O. No. 147 – Board Order No. MGB 109/10
- b) Calgary Composite Assessment Review Board Decision CARB 1597/2011-P
- c) A RealNet Commercial Search document listing the transaction details for eight land parcels said to be “motivated” sales which were assembled to build the new Bow office Tower.
- d) Individual RealNet information sheets detailing the features and transaction details for each of the eight land parcels listed in (c) above.

[20] The Complainant referenced the Respondent’s “Historical Downtown Land Sales” matrix on page 208 of R-1. He noted that two of the City’s properties – one in DT1 and the other in DT2 East – those being 526-530 – 4 AV SW (DT1), and, 633 – 3 AV SW (DT2 East) are situated across the street from each other. He noted that the two parcels are approximately the same size and sold for similar values. The former sold in 2007 and the latter in 2008. He questioned whether, on the basis of these two sales alone, the City had correctly established the boundary between the DT1 and DT2 East, and, by extension, the boundary between the subjects and his preferred comparable 515 MacLeod Trail SE. He noted that the market zone in which a property is located, all as established by the City’s interpretation of market sales, can have an important impact on its assessed value.

[21] The Complainant requested that the assessments of the two subjects be reduced to values as identified in paragraphs numbers [7] and [8] above.

b) **Respondent’s Position:**

[22] The Respondent presented his evidence package R-1. He argued that the subjects are in DT1, the “best” market area in all of downtown, a fact which speaks to its assessed value. He argued that the Complainant’s market evidence also demonstrates the City’s contention that there are different and generally declining values for properties as one proceeds outward from the downtown core. Based on detailed analysis of all valid market sales in these zones over time, the City has defined specific market zones for the Downtown (DT) areas in which zone-specific per SF land values have been defined and applied to assessment calculations.

[23] The Respondent argued that while the subjects are strategically located in the City’s “best” economic zone DT1, the Complainant is relying on one sale located east of the subjects in a lesser valued and relatively less desirable economic zone “Municipal”. He argued that the sale of 515 MacLeod Trail SE demonstrates that fact quite clearly. He offered that despite the Complainant’s arguments to the contrary, properties in DT1 sell at a premium. In support of this position, the Respondent provided a matrix of market sales on page 25 of R-1, and included the supporting RealNet transaction detail sheets on pages 26 to 69 inclusive.

[24] The Respondent then referred in extensive detail to his matrix of DT1 market vacant land sales on page 25 of R-1. He noted that while the sales were from 2007 and 2008, and, the transaction values ranged from a high of \$813.10 to a low of \$543.54, nevertheless the City had only assessed land parcels in DT1 at a significantly reduced \$355 per SF in recognition of changed market conditions since the sales occurred. He argued that this reduced value was reasonable in the current market circumstances. The matrix of page 25 sales is as follows:

| address                            | LUD  | parcel size<br>(SF) | influences | adjustment<br>factor | sale date  | sale price<br>(\$) | adjusted sale<br>price /SF (\$) |
|------------------------------------|------|---------------------|------------|----------------------|------------|--------------------|---------------------------------|
| 526-530 4 AV<br>SW                 | CM-2 | 28,011              | CL, TZD    | 5%                   | 05/17/2007 | 14,500,000         | 543.54                          |
| 149 5 AV SE                        | CM-2 | 7,253               | CL, TZD    | 5%                   | 05/18/2007 | 4,190,000          | 606.58                          |
| 115 7 AV SW                        | CM-2 | 3,253               | LRT        | 15%                  | 03/31/2008 | 2,300,000          | 813.10                          |
| 123, 125,<br>127, 129 – 7<br>AV SW | CM-2 | 19,494              | LRT        | 15%                  | 11/18/2008 | 11,000,000         | 648.92                          |

[25] Using multiple market sales, maps, and diagrams, the Respondent spent considerable time clarifying for the Board and Complainant, precisely how the various market zones in the various Downtown zones were identified, and the boundaries for each were established and have been modified over time. He also clarified why it is important to analyze and compare sales or equity comparables from within a specific zone, to that of any subject, including those before the Board in this hearing.

[26] In particular the Respondent meticulously identified zone-specific market land sales, each in a matrix specific to that market zone. He also provided the RealNet sales data sheets for each sale in the respective matrix. In particular he referenced the following in R-1:

- a) page 71 – DT2 East – three sales – one used by Complainant (718 - 8 AV SW) – assessed rate \$355 per SF
- b) page 120 – DT2 West - one sale – used by the Complainant (1105 – 7 AV SW) – assessed rate \$310 per SF
- c) Page 143 – DT East Village – four sales – assessed rate \$150 per SF
- d) Page 186 – DT Municipal – two sales – assessed rate \$260 per SF (location of Complainant's "best" comparable)
- e) Page 208 – DT Historical Land Rates.

[27] On page 319 of R-1 the Respondent provided a *Post Facto* land sale from the Eau Claire downtown district. He clarified that while this sale occurred some 5 months after the 515 MacLeod Trail sale relied on by the Complainant, it transacted for \$406 per SF, some \$100 per SF more. On page 332 of R-1 the Respondent provided a second *Post Facto* sale from DT Chinatown. It transacted in October 2012 for \$199.39 per SF but is assessed at \$180 per SF. The Respondent argued that this market evidence demonstrates that different downtown market zones attract different transaction rates and therefore it is important to compare only properties within a specific zone when comparing assessed values, contrary to the Complainant's approach.

[28] The Respondent argued that CARB 1597-2011-P referenced by the Complainant is not relevant to this hearing because he considers the facts to be materially different. He also argued that the Complainant provided insufficient market or related evidence to support his theory that certain market sales – such as those used to assemble the land parcel on which the Bow office tower was erected, may have been adversely influenced to a higher value, thereby distorting the market.

[29] The Respondent noted that the Complainant relies on one sale from a different market zone than the subjects, and while it may be an “indicator” of value, the single sale does not “make the market”. On the contrary he argued, his analysis of historical market sales ([26] above) demonstrates that the City’s zonal classification system based on market sales is valid – all of which supports the assessments for the subjects.

### **Board’s Reasons for Decision:**

[30] The Board finds that while the Complainant has predominantly relied on one market sale at 515 MacLeod Trail SE, it is located in an emerging market zone with land values demonstrated by the market sales evidence from both parties, to be lesser in value than in DT1 where the subjects are located.

[31] The Board finds that the Complainants remaining two property comparable sales are located south and west of the subjects in peripheral market zones, relatively “remote” from DT1. The Respondent has demonstrated pursuant to market sales data that land values in these more “remote” market zones are not comparable to those in the City core of DT1. Therefore these two sales are not comparable to the subjects.

[32] The Board finds that the Respondent’s extensive and totality of evidence in R-1 supports his analysis of historical market sales used to define the various market zones, and the land values attributed to each zone, which in turn supports the assessments of the subjects in the market-superior DT1 economic zone.

[33] The Board finds that the Respondent’s extensive evidence in R-1 supports his argument that as one proceeds outward easterly and westerly from the DT1 core, land values decline in measurable patterns which can be identified as market zones, which in turn supports the assessments of the subjects and demonstrates that property at 515 MacLeod Trail is not comparable to them.

[34] The Board finds that analysis of the mapping provided by the parties demonstrates that the location of the subjects in “DT1” is superior to the Complainant’s main property comparable in “DT Municipal” at 515 MacLeod Trail SE for several reasons;

- a) the existing development surrounding the subjects is very high quality, and firmly in place, meaning that development of the subjects can occur and be integrated into the neighbourhood fabric immediately;
- b) development on the subjects can immediately connect to the Plus 15 pedway system in all directions which adds value, but development on the 515 MacLeod Trail site cannot
- c) development on the 515 MacLeod Trail site would essentially be a “stand-alone” development, perhaps dependent on its success by similar unknown development on adjacent parcels, unlike the subjects.
- d) development on the subjects can connect directly to the 8<sup>th</sup> AV SW retail spine, unlike the 515 MacLeod Trail property comparable.
- e) The subjects are more centrally located to readily access the downtown LRT line, unlike the 515 MacLeod Trail SE site.

[35] The Board finds that while the construction of the new Bow office tower may, as the Complainant argued, positively influence the value of property in its immediate vicinity, the Complainant provided insufficient evidence to confirm this observation.

[36] The Board finds that while the Complainant argued that “motivated” market sales may be unduly influenced to higher values in their final sale price than those parcels which are not “motivated” sales, he provided insufficient concept-specific market data and accompanying argument to convince the Board that this assumption is correct as it affects the \$355 per SF “typical” value used to assess the subject.

[37] The Board finds that the Complainant provided insufficient information to demonstrate that the assessment was either incorrect or inequitable.

DATED AT THE CITY OF CALGARY THIS 12<sup>th</sup> DAY OF July 2013.

  
K. D. Kelly

Presiding Officer

**APPENDIX “A”**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

| NO.   | ITEM                              |
|-------|-----------------------------------|
| 1. C1 | Complainant Disclosure            |
| 2. C2 | Complainant Disclosure - 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.*

*For Administrative Use Only*

| Appeal Type | Property Type | Property Sub-type | Issue        | Sub-Issue           |
|-------------|---------------|-------------------|--------------|---------------------|
| CARB        | Vacant Land   | commercial        | Market value | Comparable property |