

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:

Ferial Antoinette Atallah (as represented by Assessment Advisory Group Inc.)
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Walter Krynski, PRESIDING OFFICER
Helen Ang, BOARD MEMBER
Jim Rankin, 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:	057025793
LOCATION ADDRESS:	908 Edmonton Trail, NE
FILE NUMBER:	71937
ASSESSMENT	813,000

This complaint was heard on 27 day of June, 2013, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *Mr. Doug Bowman*
- *Mr. Terry Youn*

Appeared on behalf of the Respondent:

- *Mr. Gary Good*

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

- [1] The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

- [2] The subject property is a parcel of land, improved with a Retail Strip Mall, located at 908 Edmonton Trail, NE. The structure, is situated on a 9,882 sq. ft. parcel, which is zoned CCOR 2. The improvement has a Net Rentable Area of 3,854 sq.ft., and was built in 1980.

Issues:

Should the Subject Property have a Shape Influence adjustment of -25% applied to the current assessment?

Complainant's Requested Value: \$ 609,750

Board's Decision

[3] The Board derives its authority to make a decision under Part 11 of the Municipal Government Act (the "Act").

[4] On review and consideration of all the evidence before it in this matter, the Board found the Complainant's evidence was not sufficient to convince the Board that the Subject Assessment was in error.

[5] The Board confirms the assessment at \$813,000

Legislative Authority, Requirements and Consideration

- [6] The Calgary Composite Assessment Review Board derives its authority from the Municipal Government Act and associated Government of Alberta Legislation and Regulations.

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

- [7] The Complainant submits that, due to the abnormal shape of the subject parcel, an adjustment to the assessed value is appropriate. Background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports were presented. The Maps indicated the West (Edmonton trail) boundary of the Subject to be angular, and a small 750 square foot piece was at some time, subdivided out of the northeast corner of the Subject parcel. A -25% shape adjustment is requested, based on a City of Calgary **"Influence and % Adjustment"** Chart, which was included in the Complainant's evidence.

- [8] In support of their position, evidence was presented, in the form of an excerpt from the City of Calgary Land Use Bylaw 1P2007:

(74.1) "Irregular parcel" means a parcel that is inconsistent in shape with other parcels in the neighbourhood, where the property line opposite to the farthest from the front property line:

(a) Cannot be identified; or

(b) results in a parcel that has less than two side property lines.

Based on this description, the complainant contends that the property constitutes an "irregular parcel", and an adjustment is therefore warranted.

- [9] In further support of their position, the Complainant submitted an Equity Comparable, located at 336 9 Ave. NE. The comparable consisted of a very small (2,752 sq. ft.) triangular parcel of land, improved with a 740 sq. ft. fast food bldg. Photos, a map and Assessment Explanation Summary accompanied the equity comparable.

Respondent's Position:

- [10] The Respondent advised that the Subject Property was assessed at land value only, as the Income Approach valuation resulted in a value lower than the value of the land, as though vacant. In situations such as this, the City policy is to assess at land value, utilizing the Sales Comparison Approach.
- [11] The Respondent submitted that the City policy respecting "shape" adjustments is that an adjustment for shape ***"is only applied to properties which demonstrate a reduced development potential, or functionality as a result of the shape of the lot."*** The Subject site, according to the City does not demonstrate such a loss in utility.
- [12] In further support of their position, the Respondent submitted two equity comparables in the area, with irregular shape, not unlike the Subject, neither of which received an adjustment for shape. The Comparables are located at 618 1 Ave., NE; and, 902 Edmonton Trail, NE. An additional Comparable, (332 Edmonton Trail, NE), was presented, to illustrate an irregular shaped lot, for which a shape adjustment is justified. This parcel is relatively small and triangular shaped, displaying a marked restricted development potential, and conforming fully to the definition of irregular parcel, within (74.1) of Calgary Land Use Bylaw 1P2007.
- [13] Finally, the Respondent referenced a number of recent CARB Decisions, in support of the City's policy wherein, ***"Properties which indicate a higher land value than Income Approach value are typically assessed at a land value."*** Although mentioned by the Complainant, this argument was not actively pursued.

Board's Reasons for Decision:

- [14] The Board was not convinced that the somewhat irregular shape of the Subject Property necessarily results in a loss in value. The Subject site is rather large, which tends to minimize any constraints due to shape. The 750 sq. ft. piece subdivided out of the northeast corner of the site, does not appear to have constrained the development or utility of the site. The existing building appears to have been built so as to conform to the site. Certainly, no evidence was presented to suggest that the improvement is economically impacted in any way due to its' placement and conformity to the site. The angular nature of the west boundary, merely follows the alignment of Edmonton Trail NE, and maintains full exposure and access to Edmonton Trail.

- [15] The Complainant's reference to Calgary Land Use Bylaw 1P2007, does not support their position. Section 74(1) specifies "irregular" as being:

"Where the property line opposite to and farthest from the front property line:

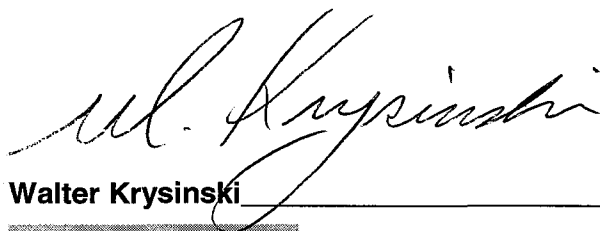
- (a) cannot be identified; or
- (b) results in a parcel that has less than two side property lines.

Neither of these situations falls true for the Subject Parcel.

- [16] The Board does not consider the Equity Comparable provided by the Complainant to be similar to the Subject. The shape constraints are much more drastic for the Comparable, due to it's much smaller size (2,752 sf) versus the Subject's much larger 9,882 sf. Furthermore, the Comparable did not receive a shape adjustment in the calculation of its' assessment.

- [17] The three Equity Comparables provided by the Respondent, show that similar properties in the immediate vicinity on Edmonton Trail, are valued in a similar and consistent fashion.

DATED AT THE CITY OF CALGARY THIS 19th DAY July 2013.



Walter Krynski

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Commercial Retail	Strip Retail	Parcel Shape	- Equity Comparables