



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:

BCIMC Realty Corporation Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair; J. Zezulka
Board Member; R. Deschaine
Board Member; K. Farn***

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: 068240407

LOCATION ADDRESS: 217 - 1 Street SW

FILE NUMBER: 72095

ASSESSMENT: \$6,530,000

This complaint was heard on 18 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. Chabot*

Appeared on behalf of the Respondent:

- *L. Wong*
- *R. Ford*

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

- (1) There were no procedural or jurisdictional matters raised by either party.

Property Description:

- (2) The property consists of an undeveloped land parcel of 19,376 s.f., known as the Mobil site, located adjacent south of the Chinese Cultural Center, on the corner of 1 Street, and 3 Avenue SW. in downtown Calgary.

Issues / Appeal Objectives

- (3) The subject is currently assessed in Zone DT1, which is the central downtown core for assessment purposes. The assessed land rate is \$355 per s.f. The Complainant argues that the subject's location is more properly categorized as DT9, Chinatown, with an assessed land rate of \$180 per s.f.
- (4) The subject's land use classification is DC-Direct Control, under Land Use Bylaw 49Z84. The Complainant argues that the provisions of this Bylaw are substantially more restrictive than the typical CM-2 zoning that prevails in the downtown core.
- (5) The complainant contends that the assessed value of the subject should be equal to the Chinatown zone land rate because of the location, and the existing zoning, and that the current assessment is not fair and equitable with comparable land parcels in Chinatown.

Complainant's Requested Value:

- (6) \$3,480,000

Board's Decision:

- (7) The assessment is reduced to \$3,480,000.

Legislative Authority, Requirements and Considerations:

(8) This Board derives its authority from section 460.1(2) of the Municipal Government Act, being Chapter M-26 of the revised statutes of Alberta.

(9) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAC), states as follows;

"An assessment of property based on market value

(a) must be prepared using mass appraisal

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property"

(10) Section 467(3) of the Municipal Government Act states;

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

(c) the assessments of similar property or businesses in the same municipality."

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

(10) The subject is situated on the north west corner of the intersection between 3 Avenue, and 1 Street SW. The north-south assessment boundary adopted by the Calgary assessment Department, between Chinatown (DT9), Eau Claire (EAU), and the Downtown Core (DT1), is 1 Street SW. The east-west boundary between EAU and DT1 is 2 Avenue. The subject is one block south of 2 Avenue, and is west of 1 Street

(11) The Chinese Cultural Center is located adjacent north of the subject, on a site that is classified by the Respondent as being in the Downtown zone, and not in Chinatown. The Cultural Center was specifically designed in a Chinese motif, with the assistance of imported Chinese tradesman. The Center was intended to be and is used as the central focal point of all Chinese cultural activities in the City.

(12) Various documents prepared by the City of Calgary Planning Department show the boundary between Chinatown and DT1 to be along 2 Street, one block to the west of the existing assessment boundary.

(13) The City Centre Plan is a joint planning document prepared by the Land use Planning & Policy Planning, Development and Assessment Departments. The document was approved in May of 2007. That document shows the subject to be well within the Chinatown concept plan.

(14) The Chinatown Area Redevelopment Plan, approved in 1986 under Bylaw 3P86, with the office consolidation dated June 2009, shows the subject to be within the Chinatown study area.

(15) The Chinatown Handbook of Public Improvements, published by the City of Calgary Planning and Building Department, shows the subject as being within the study area.

(16) The subject is included as site 2, of Land Use Bylaw 49Z84. The discretionary Land uses within that Bylaw allow for primarily residential and residential support uses. Notably missing from the list of allowable uses are office buildings. The maximum Floor Area Ratio (FAR) allowed is 6.5, with a maximum FAR including bonuses of 7.5. That compares to the more typical downtown CM-2 zoning, that provides for, among other things, *"predominantly commercial development as well as allowing for a wide range of institutional and residential uses."* The "base" FAR for CM-2 zoning is 7.0, with allowable bonuses up to 20 FAR.

(17) In support of the requested land value, the Complainant provided five downtown land sales that occurred between 2010, and 2012. Selling prices range from \$118.97 to \$435.27 per s.f. Four of the sites are zoned CM-2, or DC with CM-2 guidelines. All four had a potential maximum FAR of 20. Selling prices for those varied from \$271.39 to \$435.27 per s.f. The fifth site was zoned DC with a potential maximum FAR of 7.5. The selling price was \$118.97 per s.f.

(18) The Complainant also introduced a March, 2007 sale of a site at 140-2 Avenue SW. This property is in Chinatown, across 2 Avenue and 1 Street from the subject. The site sold for \$353.12 per s.f., and is currently assessed at \$180.00 per s.f. The Maximum achievable FAR with bonuses is 7.5.

(19) The 2011 City of Calgary Assessment Explanation Supplement shows the subject location as "Chinatown" with a land rate before 'influences' of \$200 per s.f.. The City then applied a plus 5 per cent corner influence, and a minus 20 per cent influence for the DC Land Use classification. The land use influence is no longer applied for the current assessment.

Respondent's Position / evidence:

(20) The subject's net assessment after adjustments is \$337 per s.f.

(21) The Respondent submitted four "DT1" land sales in support of the assessment. The transactions took place in 2007 and 2008. The time adjusted selling prices range from \$543.54 to \$813.10 per s.f. The mean is \$653.03 and the median is \$627.75.

(22) The Respondent also submitted land sales from other DT zones that were used in establishing land rates for assessment purposes. These are summarized as follows;

<u>Zone</u>	<u># of Transactions</u>	<u>Mean Adjusted Price/S.F</u>	<u>Median Adjusted Price/S.F</u>
DT2East	3	\$338.02	\$307.41
DT2West	1	\$118.97	\$118.97
DT3 East Village	4	\$145.45	\$148.70
DT3Municipal Zone	2	\$266.19	\$266.19

The Respondent did not address the transactions, and none were disputed by the Complainant.

(23) The Respondent's evidence package also contained a number of historic transactions, but none were specifically referred to.

(24) Of interest to the Board was one post valuation date sale in the Chinatown zone submitted by the Respondent. The property is at 201-1 Street SE. The 4,288 s.f. parcel sold in October, 2012, for \$900,000, or \$209.89 per s.f. The City's adjusted rate calculates to \$199.39 per s.f.

Board's Reasons for Decision:

(22) It appears that the Calgary Assessment Department stands alone in their contention that the subject, and the Chinese Cultural Center, are not in Chinatown. This Board will defer to the Planning Department (who is skilled in planning matters) rather than the Assessment Department (who may be skilled in assessment but not necessarily planning) when it comes to the definition of neighbourhood boundaries. It seems incongruous that the Cultural Centre, which was designed and intended to be the central focal point of Chinatown, is not included in Chinatown. It is this Board's decision that the subject correctly belongs in the Chinatown zone, and should most correctly be assessed in the same manner as other Chinatown sites, at \$180

per s.f. That position is fortified by the fact that the Assessment Department assessed the subject in the Chinatown zone as late as 2011. The reason for the change was not adequately explained.

(23) In the text entitled "The Appraisal of Real Estate, Canadian Edition", Land Valuation Techniques; Direct Comparison Approach, the following appears; *"Zoning is often the most basic criterion in selecting comparables. Sites zoned the same as the subject property generally have the same or similar highest and best use and are the most appropriate comparables."* A standard premise in real estate valuation, whether it be for site specific valuation, or mass appraisal, is that sites with similar development potential have similar values in the marketplace, and sites with different levels of potential have different values. For that reason, the Board does not accept the Respondents comparable properties as being comparable to the subject.

(24) Having said that, there is no rationale for the quantum leap from the Respondent's comparables, with a mean and median adjusted per s.f. price of \$653.03 and \$627.75, to the assessed rate of \$355. The Board places little or no weight to the Respondent's DT1 land comparables.

(25) By reason of the neighbourhood boundaries, and the provisions of the Land Use Bylaw, this Board finds that the subject is not being assessed in accordance with section 2(c) of MRAC, nor is the assessment fair and equitable, as contemplated in Section 467(3) of the Municipal Government Act, and therefore rejects the assessment in favour of the complainant's more plausible position.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF July 2013.



Jerry Zezulka

Presiding Officer

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

Decision No. CARB72095P/2013			Roll No. 068240407	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land	Value	Nieghborhood and land use	Equity