



## **Calgary Assessment Review Board**

### **DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act (MGA)*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Alain's Shoe Repairs Ltd.***  
***(as represented by Altus Group Limited), COMPLAINANT***

and

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

before:

***M. Vercillo, PRESIDING OFFICER***  
***P. Charuk, 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:

**ROLL NUMBER:** 101022606  
**LOCATION ADDRESS:** 5327 2 ST SW  
**FILE NUMBER:** 72099  
**ASSESSMENT:** \$395,000

This complaint was heard On the 16th day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *D. Main*
- *K. Fong*

Appeared on behalf of the Respondent:

- *R. Farkas*
- *N. Domenie*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**Property Description:**

[2] The subject property is a parking lot, located in the Manchester community of SW Calgary with a land use designation of Commercial Corridor 3 (C-COR3). The subject is actually owned by the City of Calgary and is leased or licensed for the exclusive use of the assessed; Alain's Shoe Repair Ltd. According to the information provided, the property contains no improvements and has an assessable land area 5,476 square feet (sf).

[3] The subject is assessed using the Sales Comparison Approach to value at a rate of \$122.00 per sf on the first 3,000 sf and \$65.00 per sf on the residual or remaining portion of the land. The total assessment value is then reduced for a negative shape factor by 25%.

**Issues:**

[4] The CARB considered the complaint form together with the representations and materials presented by the parties. However, as of the date of this hearing, the following issues remained in dispute:

- a) The parking lot serves as the required parking for a neighbouring property at 5333 2 ST SW (Roll #201513355). Therefore, the assessment value of the subject should be given a nominal value of \$1,000 because its fair market value is already captured in the assessment of the neighbouring property it serves.
- b) An additional topography negative influence adjustment should be applied to the subject's assessment.

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

[5] The complaint is accepted in part and the assessment is revised at \$369,000.

**Legislative Authority, Requirements and Considerations:**

[6] As in accordance with MGA 467(3), a CARB *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.*

**Position of the Parties**

**ISSUE 1:** The parking lot serves as the required parking for a neighbouring property at 5333 2 ST SW (Roll #201513355). Therefore, the assessment value of the subject should be given a nominal value of \$1,000 because its fair market value is already captured in the assessment of the neighbouring property it serves.

**Complainant's Position:**

[7] The Complainant provided a 101 page disclosure document that was entered into the hearing as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence and argument with respect to this issue:

[8] A map of the subject and four neighbouring parcels. The map conveyed that the subject parcel is directly north of 5333 and 5337 2 ST SW, which together form the location for the Stampede Boot Company (SBC). It was argued that the SBC has no direct access to 2<sup>nd</sup> ST or Macleod Trail and must use either the subject property or the parcel directly to the south at 5339 2 ST SW.

[9] A copy of Land Use Bylaw 1P2007, dated July 23, 2007. The Complainant highlighted that the neighbouring parcel(s) (SBC) would require 4 parking spaces for every 100 square metres of gross useable floor area. The Complainant calculated that this would require the SBC to have 25 parking spaces based on the main floor area of the SBC. According to a letter from Mr. Alain of SBC, dated August 6, 2013, only 2 are contained on the SBC property.

[10] A "2013 Parking Assessments" listing. The listing provided examples of 26 parking lots that were given nominal value assessments because they were essentially serving the same function as the subject, i.e., providing the necessary parking required for an adjacent property.

**Respondent's Position:**

[11] The Respondent provided a 24 page disclosure document that was entered during the hearing as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence

and argument with respect to this issue:

[12] A June 5, 2007 copy of a development permit (DP 2007-1479) affecting the subject and the neighbouring three parcels directly south of the subject; 5327, 5333, 5337 and 5339 2 ST SW. The parking requirement indicated that 8 parking spaces were necessary but only 6 were in fact provided. The Respondent argued that the subject was developed around the 2P80 land use guidelines, which required the parking indicated on the DP 2007-1479 permit and not the Land Use Bylaw 1P2007 as indicated by the Complainant.

#### **CARB Findings:**

The CARB finds the following with respect to this issue:

[13] That there are no significant access issues based on reviewing maps and pictures of the subject that were provided by both parties.

[14] That the subject does not necessarily provide the required parking for the neighbouring 5333 2 ST SW parcel. The CARB agrees that only 8 stalls were required for the neighbouring SBC site. On that basis, it appears in reviewing overhead pictures or ortho maps of the site(s) that the SBC could accommodate most if not all of these parking spaces.

**ISSUE 2: An additional topography negative influence adjustment should be applied to the subject's assessment.**

#### **Complainant's Position:**

[15] The Complainant along with Exhibit C1 provided the following evidence and argument with respect to this issue:

[16] A copy of the Respondent's 2013 Non-Residential Land Use Influence Adjustments. The Complainant highlighted that topographical influences are applied to "properties which experience diminished development potential as a result of the slope or topography of the lot. The Complainant argued through the use of pictures that the subject suffers a significant slope or gradient issue. Therefore, an additional negative topographical influence of 30% should be applied to the subject, which would result in an alternative requested assessment of \$140,000.

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

[17] The Respondent along with Exhibit R1 provided the following evidence and argument with respect to this issue:

[18] A City of Calgary influence adjustment chart and definitions for the use of topography and shape influences in assessments. The Respondent agreed that the subject does suffer from topographical challenges but not shape issues as currently assessed.

#### **CARB Findings:**

[19] The CARB finds the following with respect to this issue:

[20] That the subject has topographical challenges or influences as defined by both parties.

[21] That the subject has no shape challenges or influences as defined by both parties and

as currently assessed.

**Board's Reasons for Decision:**

[22] The CARB does not accept that the subject serves to provide the necessary parking for the neighbouring parcel(s). The CARB agrees with the Respondent that the parking space requirements are only 8 spaces and this was also indicated in Mr Alain's letter of August 6, 2013.

[23] The CARB does not accept that the subject serves to provide access to the neighbouring parcel(s) to 2<sup>nd</sup> ST SW.

[24] The CARB agrees with both parties that the subject's slope or grade limits its development potential and accordingly its land value assessment should be reduced 30% for topographical influence. However, the CARB does not agree that the subject suffers a shape influence that limits its development potential, as currently assessed. Therefore the 25% shape negative influence should be removed from the subject's current assessment.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF October 2013.



**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
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 MGB Office Only)**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
CARB	Other Property Types	Vacant Land		