



DECISION WITH REASONS

In the matter of a preliminary decision related to 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:

Certus Developments Inc. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
H. Ang, BOARD MEMBER
A. Huskinson, 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:	081061400
LOCATION ADDRESS:	2513 14 St SW
FILE NUMBER:	72396
ASSESSMENT:	\$1,130,000

The Complaint was heard on the 17th day of October, 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:

- A. Izard

Appeared on behalf of the Respondent:

- C. Fox

Procedural or Jurisdictional Matters:

[1] Neither party objected to the Panel constituted to hear this matter and make a decision on the assessment.

Property Description:

[2] The subject property is a total of 13,953 square feet (SF) located along 14th St SW, in the Bankview District, and zoned Commercial-Corridor 2 (C-COR2). The 2,389 SF building was originally built in 1959 and operated as a two bay retail building. Apparently the building was severely damaged by fire a few years ago (details were not provided) and is currently being redeveloped. The 2013 assessment is calculated using a "land only" approach applying the C-COR land rates (\$122/SF for the first 3000 SF, \$65/SF for 3,001-20,000 SF and \$10/SF for any remaining land area over 20,000 SF), plus a 5% corner lot adjustment, resulting in an assessed value of \$1,130,000.

Issues:

[3] Both parties addressed a number of topics, but only those topics that are germane to the issues and supported by evidence are discussed in this decision. All these issues relate to whether the 2013 Assessment is correct.

1. Is the income approach an appropriate methodology to calculate the assessment, and if so, what is the appropriate assessed value using this approach?
2. Is the land only approach an appropriate methodology to calculate the assessment, and if so, what is the appropriate assessed value using this approach?
3. Is the subject property equitably assessed?

Complainant's Requested Value: \$750,000

Board's Decision:

[4] The Board confirms the 2013 Assessment of \$1,130,000.

Legislative Authority:

[5] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act, might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that 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. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

[6] The Board notes that the words "fair" and "equitable" are not defined in the MGA or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard.

Issues:

[7] The Complainant's position is that the assessment should be calculated using an income approach, applying typical factors for such retail properties. The Respondent's position is that since the property is under construction/renovation, that a land only approach better reflects the value of the subject property as of the valuation date. Each party dismissed the other's approach without providing much detail.

Issue 1: Is the income approach an appropriate methodology to calculate the assessment, and if so, what is the appropriate assessed value using this approach?**Complainant's Position**

[8] The Complainant stated that the property is being redeveloped after a fire destroyed much of the interior of the building. Apparently due to setbacks and other restrictions, the property owner was not allowed to redevelop the property to the intensity desired (page 21-24, Exhibit C1) and limited to 2,385 SF of leasable area. Because of the limitation on the leasable area, the property cannot achieve its highest and best use. To reflect the value of the property at its approved use, the Complainant provided an income approach.

[9] Exhibit C1 included various tables and documents to support the various factors used in the income approach used to calculate the value of the subject.

Respondent's Position

[10] The Respondent stated that because the property is under construction, using an income approach is speculative. A more direct approach is to value the property as bare land.

The Board's Findings on this Issue:

[11] The Board was presented with little information regarding the status of the property as of the valuation date (July 1, 2012) or the condition date (December 31, 2012). The Complainant provided sketches of what were apparently the desired and approved site plans, but did not provide any evidence as to when the renovations were approved, a copy of a Development Permit or any other official documentation related to the renovation/redevelopment project. The Complainant did not provide any information regarding the anticipated occupancy date, or what efforts had been made to lease the property. The Board finds that it has no evidence to support the position that the property is under active renovations as of the condition date for the 2013 assessment, or to support the contention that the property is approved for a development at less than its highest and best use.

[12] The Board finds that the derivation of the various factors used in the income approach calculation presented by the Complainant are poorly supported, especially since no information was presented to establish what the renovated building will look like, its design, etc.

[13] The Board is not persuaded that the income approach presented reflects the market value of the subject property as of the condition date.

Issue 2: Is the land only approach an appropriate methodology to calculate the assessment, and if so, what is the appropriate assessed value using this approach?

Complainant's Position

[14] The Complainant argued that the land only approach overstates the value of the property, because of restrictions related to the size of the building allowed. Furthermore, the sales used by the City to derive the land only rates include properties with much higher densities that is allowed on the subject property.

Respondent's Position

[15] The Respondent presented its 2013 Commercial Land Values summary table (page 194, Exhibit R1), a summary table of C-COR land sales used to derive the C-COR land rates (page 195, Exhibit R1) and supporting documents for the sales. The time adjusted sale price of the nine C-COR sales ranges from \$30.33 to \$120.87 per SF. The subject property is assessed at \$80.99/SF.

[16] The Respondent presented a copy of a land transfer involving the subject property (page 313-317, Exhibit R1) that shows the subject property transferred for \$1,140,227.59 on July 18, 2012. The Respondent argued that this supported the assessed value of \$1,130,000 for July 1, 2012.

The Board's Findings on this Issue:

[17] The Board accepts the land only rates as developed by the City and applied to the 2013 assessment calculation. The Board is not persuaded that these rates are not appropriate for the subject property, and finds no reason to alter the assessment.

[18] The Board notes that the transfer of the subject appears to be between related parties, however the Affidavit of Transfer indicates that \$1,140,227.59 cash was paid for the property. While this is not considered a market transaction, the Board considers it an indicator of the value that the property owner put on the property as of the transaction date.

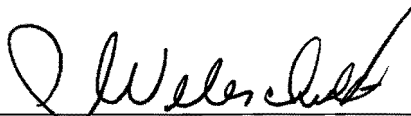
Issue 3: Is the subject property equitably assessed?

[19] The equity comparable evidence presented by the Complainant and Respondent referred to specific factors used in the respective assessment calculations, and are addressed in those sections above. No overall equity comparisons were presented by either party.

Board's Decision:

[20] The Board concludes that the 2013 assessment reflects the market value of the subject property, and therefore confirms the 2013 assessment of \$1,130,000.

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



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure – Appendix
7. 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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand alone	Bare land value vs income approach value	Equity