

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:

Prairie View Holdings Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

J. Massey, BOARD MEMBER

R. Deschaine, 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:	031019904
LOCATION ADDRESS:	3328 26 ST NE
FILE NUMBER:	72457
ASSESSMENT:	\$1,840,000

This complaint was heard on the 22nd 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:

- D. Mewha (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- F. Taciune (City of Calgary)
- J. Tran (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] The parties have visited the site.
- [3] The parties have discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.

Property Description:

[5] The subject property is a 1.32 acre parcel located in the Horizon community in NE Calgary. The site is improved with a 2,640 square foot (sf) freestanding retail building occupied by Budget Rent-A-Car. The building was constructed in 1988 and is considered to be C+ quality. The assessment is prepared as (Land only), using the Sales Comparison approach to value.

Issues:

[6] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the assessment of the subject property is in excess of its market value for assessment purposes."

Complainant's Requested Value: \$1,380,000 (Complaint Form)
\$1,295,872 (Hearing)
\$920,000 (Alternate at Hearing)

Board's Decision:

[7] The 2013 assessment is confirmed at \$1,840,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that:

- 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,
 - (a) apply the valuation and other standards set out in the regulations, and
 - (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 2 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.
- 4(1) The valuation standard for a parcel of land is
 - (a) market value, or
 - (b) if the parcel is used for farming operations, agricultural use value.

Board's Decision in Respect of Each Matter or Issue:

Issue: What is the market value, for assessment purposes? The subject is assessed at \$1,840,000, while the Complainant is requesting \$1,295,872 or alternatively \$920,000.

Complainant's Position:

[8] The Complainant's Disclosure is labelled C-1.

[9] The Complainant, at page 7, provided the Property Assessment Detail Report for the subject property, noting that no Influence Adjustments had been applied to the assessment.

[10] The Complainant, at page 8, noted the Land Use Designation for the subject property is C-COR3 f1.0h12, Commercial – Corridor 3, which means that the permitted floor area ratio (FAR) for any improvement on the subject property is 1.0, while the maximum permitted height is 12 metres.

[11] The Complainant, at page 17, provided a table titled, 2013 Non-Residential Commercial Land C-COR Sale Analysis. The Complainant noted the two best comparables are the sales at 102 64 Avenue NE and 3301 17 Avenue SE, with time adjusted sale prices of \$29.32 psf and \$30.55 psf, respectively.

[12] The Complainant, at page 18, provided a table titled, 2013 Non-Residential Commercial Land C-COR Sale Analysis, advising that the table is a reproduction of the City table with the land sale for 2020 34 AVE SW removed, because it was too small to be considered comparable. In addition, the Complainant added columns headed FAR, TASP Rate Buildable, Max Buildable, City Influence(s) and Traffic Influence. The Complainant submitted that the comparables, with one exception, have a higher (FAR) than the subject, and as a result, have the ability to support larger improvements. The Complainant, using the FAR and the TASP, calculated the TASP per Maximum Buildable area. The Complainant noted the median TASP Rate per Max Buildable sf was \$23.00. The Complainant requested the \$23.00 psf rate be applied to the Max Buildable Area of the subject property (57,499 sf) to arrive at a requested assessment of \$1,295,872.

[13] The Complainant, at page 16, provided a table titled, 2013 Non-Residential Industrial Land Influence Adjustments. The Complainant submitted that the subject property assessment should receive a -25% adjustment for "Land Use Restriction" and a further -25% adjustment for "Limited Access". The Complainant submitted that because the FAR for the subject is only 1.0, that the subject, in fact, has a Land Use Restriction and the assessment should receive a -25% adjustment.

[14] The Complainant, at page 85, provided a table titled, Land Adjustments used by the City of Calgary, noting that properties with "Limited Access/Uses" receive a -25% adjustment to their assessment.

[15] The Complainant, at page 86, provided the City of Calgary criteria for applying adjustments noting that Limited/Restricted Access is "applied to properties which cannot be easily accessed and which therefore inhibits development (type, size or orientation).

[16] The Complainant, at pages 90 and 93, provided 2 examples of how the City had applied the "Limited Access/Restricted Access" adjustment in previous years. The Complainant submitted the subject has similar access to the examples and should receive the same consideration.

[17] The Complainant requested the subject assessment be adjusted -25% for "Land Use Restriction" and a further -25% for "Limited Access", as an alternative to its original request.

Respondent's Position:

[18] The Respondent's Disclosure is labelled R-1.

[19] The Respondent submitted the subject property does not meet the criteria to warrant any adjustments to the assessment.

[20] The Respondent, at page 9, provided the Land Title Certificate for the subject property, noting there is a Utility Right of Way, an Easement, a Restrictive Covenant and an Amending Agreement with respect to the Easement on the title.

[21] The Respondent, at page 17, provided a copy of the Easement, noting that the adjacent property (McDonalds) has the right to enter across the subject site to access its property and particularly to facilitate the operation of the "drive through lane".

[22] The Respondent, at page 23, provided a copy of the Restrictive Covenant, noting that if an improvement on the subject site is changed in future, it cannot be any "freestanding restaurant" and "any restaurant whatsoever which sells primarily hamburgers".

[23] The Respondent, at pages 47 through 75, demonstrated how the City had applied influence adjustments to the properties which were used in the sales analysis on page 17(C-1).

[24] The Respondent, at page 78, provided an explanation of the criteria for applying influence adjustments. The Respondent submitted that the subject property does not meet the criteria for "Land Use Restriction" or "Limited Access".

[25] The Respondent, noting the subject property is assessed as "land only", provided a table titled, 2013 Commercial Land Values. The Respondent noted that for C-COR properties, the land value is calculated by extending the first 3,000 sf at the rate of \$122.00 psf plus, the next 17,000 sf at the rate of \$65.00 psf plus the remainder at the rate of \$10.00 psf.

[26] The Respondent, at pages 82 through 84, provided examples of 3 improved C-COR3 properties that were assessed as "land only" using the Sales Comparison approach, the same as the subject property is assessed.

Board's Reasons for Decision:

[27] The Board finds the Complainant's FAR argument is acceptable in theory, but there is nothing in evidence to demonstrate how a significant development on a C-COR site took advantage of the available FAR or how the FAR actually affects the sale price.

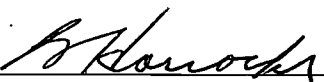
[28] The Board finds the subject property has direct access to 26th Street NE and therefore does not meet the criteria for "Limited Access".

[29] The Board finds the "Restrictive Covenant" is on the title by agreement of the owner, and therefore does not meet the criteria for "Land Use Restriction".

[30] The Board finds the Complainant's two best sales comparables with TASP of \$29.00 and \$31.00 psf support the subject assessment, which is at \$32.00 psf.

[31] The Board finds the market value for assessment purposes is \$1,840,000.

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



B. Horrocks

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 Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Freestanding	Sales Comparison Approach	Land Only