



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:

Calgary Co-operative Association Limited
(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: 037027000

LOCATION ADDRESS: 4122R BRENTWOOD RD NW

FILE NUMBER: 72478

ASSESSMENT: \$248,500

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:

- *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 long and narrow shaped residual land parcel stretching along one side of the Calgary Co-op shopping centre parking lot. According to the information provided, the subject provides a minor portion of the parking to the adjacent shopping centre. It has an assessable land area 21,744 square feet (sf) and a land use designation of Commercial - Regional 3 (C-R3).

[3] The subject is assessed using the Sales Comparison Approach to value at a rate of \$63.00 per sf on the first 10,000 sf and \$31.00 per sf on the residual or remaining portion of the land. The total assessment value is then reduced the maximum 75% for negative influences that include shape and residual factors.

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 issue remained in dispute:

- a) The subject is required for the adjacent shopping centre and could not be sold off separately. 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 Requested Value: \$1,000

Board's Decision:

- [5] The complaint is accepted and the assessment is revised at \$1,000.

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 subject is required for the adjacent shopping centre and could not be sold off separately. 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 disclosure document that was entered into the hearing as "Exhibit C1". In addition, the Complainant requested that all evidence and argument made on this issue in hearing file #73238 be brought forward to this hearing. Therefore, the 92 page disclosure document that was entered as "Exhibit C1" in hearing file #73238 shall be brought forward to this hearing. The Complainant, along with Exhibits C1 and C1 from file #73238, provided the following evidence and argument with respect to this issue:

[8] Copies of the property assessment notices from 2007 to 2012. The notices showed that the subject property was assessed with nominal values from 2006 to 2012.

[9] A copy of Land Use designation for C-R3 properties. The Complainant highlighted that the neighbouring shopping centre (also a C-R3 Land Use) has significant setback requirements, which would encompass the entirety of the subject property.

[10] Property Assessment Summary Reports for 3 equity comparable properties:

- a) 9815 MACLEOD TR SW,
- b) 8312 MACLEOD TR SE, and
- c) 121 SOUTHLAND DR SE

The comparables were all given nominal value assessments and based on maps and pictures. The oddly shaped lots were purported to serve the same function as the subject; such as provide access to the neighbouring shopping centres.

[11] 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:

[12] The Respondent provided a 64 page disclosure document that was entered during the hearing as "Exhibit R1". In addition, the Respondent requested that all argument made on this issue in hearing file #73238 be brought forward to this hearing. The Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[13] A copy of the Land Title Certificate of the subject. The certificate indicated that the subject was registered to the owner on November 19, 1964. The stated value was \$21,000. There were caveats registered by the Bank of Nova Scotia related to their lease.

[14] Property Assessment Summary Reports of 3 properties whose development permits clearly outlined their restricted use as parking lots for the adjacent properties they served and therefore were given nominal value assessments. The Respondent argued that this restriction did not exist on the subject and therefore a nominal assessed value is not merited.

[15] Property Assessment Summary Reports of 3 properties whose development was not restricted for use as parking lots for the adjacent properties they served and were not given nominal value assessments. The Respondent argued that the subject should be assessed accordingly.

[16] Property Assessment Summary Reports of some of the 2013 Parking Assessment Listings that were provided by the Complainant. The reports indicated that some of these properties were not assessed a nominal amount.

CARB Findings:

The CARB finds the following with respect to this issue:

[17] That there appears to be a change in philosophy in the assessment approach of the subject in 2013 that is based entirely on whether or not the subject contains a restricted use as parking lot.

Board's Reasons for Decision:

[18] The CARB believes that the subject property provides a very necessary function and is an integral part of the adjacent shopping centre. Although the subject has no developmental permit restrictions for parking, the CARB believes that its marketability due to its significant shape challenges and accessibility would reduce its fair market value to a nominal amount.

[19] The CARB cannot envision a situation where the current owner could sell the subject separately from the shopping centre itself. The subject seems to mesh completely with the neighbouring shopping centre parcel whose assessment value likely incorporates the subject's value.

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:**

NO.	ITEM
1) C1	Complainant Disclosure
2) C1, from File #73238	Complainant Disclosure
3) 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)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Other Property Types	Vacant Land		