

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:

Melcor Developments 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 property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	FILE NUMBER	ASSESSMENT	COMPLAINANT'S REQUESTED ASSESSMENT
201276391	1625 120 AV NE	72513	\$1,380,000	\$963,600
201413176	11995 16 ST NE	72527	\$1,790,000	\$1,247,400
201413184	11915 16 ST NE	72538	\$1,790,000	\$1,247,400

This complaint was heard on the 21 st 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:

- G. Foty (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 Complainant has visited the site, while the Respondent has not.
- [3] The parties have not discussed the file.
- [4] The parties agreed that Files numbered 72513, 72527, 72538 and 73077 would be heard together as they have common evidence and arguments. File 73077 has a separate written decision because it has a different property owner.

Property Description:

- [5] The subject properties are vacant land parcels located in the Stoney 1 Industrial community in NE Calgary. The parcels are all zoned I-G and range in size from 1.46 to 1.89 acres. The subject properties are assessed 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 complaints. 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."

Board's Decision:

- [7] The 2013 assessments are confirmed as follows:

ROLL NUMBER	LOCATION ADDRESS	FILE NUMBER	CONFIRMED ASSESSMENT
201276391	1625 120 AV NE	72513	\$1,380,000
201413176	11995 16 ST NE	72527	\$1,790,000
201413184	11915 16 ST NE	72538	\$1,790,000

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 market value, or 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?

Complainant's Position:

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

[9] The Complainant submitted that the aggregate assessment per acre, applied to the subject properties, does not reflect market value for assessment purposes when using the Sales Comparison approach to value, and should be no more than \$660,000 per acre.

[10] The Complainant, at page 14, provided a table titled, Comparables. The table contains details of 2 sales (both post facto) which occurred on July 17, 2012 and September 12, 2012. The sale prices were \$650,000 per acre and \$670,000 per acre. The median sale price was \$660,000 per acre. The Complainant requested the rate of \$660,000 per acre be applied to the subject properties, for assessment purposes.

[11] The Complainant, at page 14, provided the details of an additional sale (post facto) that had occurred on September 20, 2012 for a much larger parcel (28.95 acres). The sale price was \$567,517 per acre. The Complainant calculated the "modeled assessment" for all 3 sales to demonstrate that the assessments were 114% to 131% of the market values.

[12] The Complainant, at pages 23 through 39, provided copies of land transfer documents and Property Assessment Summary reports to illustrate that the sale of the larger parcel above (28.95 acres) was actually 4 smaller parcels, ranging in size from 5.33 acres to 8.99 acres.

[13] The Complainant, at page 40, provided a table titled, City Land Value Calculation. The table uses the City land rates to calculate the assessments for the 4 smaller parcels. The Complainant noted that assessments for the 4 parcels total \$20,176,000 while the sale price was \$16,429,614. The Complainant concluded that vacant land in the area is overassessed.

[14] The Complainant, at pages 42 through 46, provided marketing materials for Stoney Industrial Centre, which is located immediately north of the subject properties, noting the asking price of \$800,000 per acre is below the City base land rate of \$950,000 per acre.

[15] The Complainant, at page 47, provided marketing materials for the subject properties, noting the asking prices range from \$790,000 to \$960,000 per acre.

[16] The Complainant, at page 49, provided a copy of an Offer to Purchase a parcel abutting the south property line of the subject properties. The offer is for \$3,178,500 (\$648,673 per acre). The Complainant submitted vacant land in the area is selling for less than the asking price and close to the requested assessed value of \$660,000 per acre.

Respondent's Position:

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

[18] The Respondent submitted that the Complainant's 2 sales comparables are both larger than the subject properties, and that the Complainant has provided no adjustments in its analysis for diminishing returns. In addition, both sales are post facto. The Respondent also submitted that the sale of 10377 15 ST NE (4 parcels totalling 28.95 acres) involved atypical motivation between the vendor and the purchaser.

[19] The Respondent, at pages 28 through 52, provided backup materials in support of its allegation that there is a relationship between the Vendor, the Purchaser and the Development Manager of the properties at 10377 15 ST NE.

[20] The Respondent, at pages 76 through 79, provided details of all of the Industrial sales disclosed to the Complainant, in response to a request made under sections 299 and 300 of the Municipal Government Act.

[21] The Respondent, at page 80, provided a table titled, 2013 Non-Residential Industrial Land Influence Adjustments.

[22] The Respondent, at page 81, provided a table titled, 2013 Non-Residential Industrial Land Rates, noting the base rate for I-G zoned vacant land in the NE is \$950,000 per acre for the first 2 acres, and \$600,000 per acre for the remainder.

[23] The Respondent, at page 83, provided a table titled, 2013 Market Evidence: Industrial Land Sales. The table contains details of 11 sales of I-G zoned parcels in the NE quadrant, in the period August 18, 2010 to April 24, 2012. The parcels range in size from 0.92 acres to 9.31 acres, and the time adjusted sale prices per acre (TASP/AC) range from \$483,130 to \$1,069,977. The Respondent plotted the sales data on a graph to demonstrate that the TASP/AC decreases as the parcel size increases (diminishing returns). The Respondent submitted that the Complainant has not taken this into consideration in its analysis.

[24] The Respondent, at page 109, provided a table titled, Freeport (fully developed). The table contains details of 5 sales which occurred in the period January 10, 2011 to February 17, 2012. The parcel sizes ranged from 1.71 to 4.72 acres and the sale prices ranged from \$762,712 to \$952,853 per acre with a median sale price of \$908,664 per acre. The Respondent submitted these properties, on the east side of Deerfoot Trail, are in a similar location to the subject, with access to the major roadway network.

[25] The Respondent, at pages 123 through 178, provided details of 3 sales in an industrial development known as, The District at North Deerfoot, which is directly south of the subject properties. The Respondent noted the sale prices ranged from \$847,157 to \$1,276,324 per acre while the subject is assessed at the rate of \$950,000 per acre.

[26] The Respondent, at page 179, provided a table titled, Equity: District at North Deerfoot. The table contains 6 comparables ranging in size from 1.57 acres to 5.68 acres. The 2013 assessment per acre (ASMT/AC) ranges from \$721,831 to \$949,045. The Respondent noted the median is \$850,870 per acre, while the subject properties are assessed at the rate of \$950,000 per acre.

[27] The Respondent, at page 181, provided details of a sale that occurred on February 2, 2009, for a property abutting the south property line of the subject properties. The Respondent submitted that the sale price of \$950,000 per acre is a good indicator of value.

[28] The Respondent, at page 198, provided listing information for the subject properties, noting the asking prices range from \$952,380 to \$1,200,000 per acre.

[29] The Respondent, at page 205, provided listing information on 3 additional industrial properties immediately north of the subject properties, noting the asking price is \$800,000 per acre and the parcels are significantly larger than the subject properties.

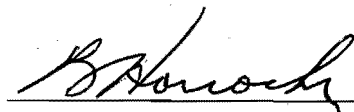
Board's Reasons for Decision:

[30] The Board finds the Respondent's listing information, from 2 different sources, indicates the market is in the range of \$800,000 to \$1,200,000 per acre.

[31] The Board finds the Respondent's 5 sales on Freeport Drive NE, with sale prices ranging from \$762,162 to \$925,000 per acre support the assessed rate of \$950,000 per acre.

The Board finds the Complainant's post facto sales at \$650,000 per acre are somewhat of an anomaly and placed no weight on them.

DATED AT THE CITY OF CALGARY THIS 20 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
Other	Vacant Land	Sales Comparison Approach	Market Value