



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:

908828 Alberta Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair; J. Zezulka
Board Member; R. Deschaine
Board Member; K. Farn***

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: 068118504

LOCATION ADDRESS: 418 - 11 Avenue SE

FILE NUMBER: 72722

ASSESSMENT: \$487,500

This complaint was heard on 19 day of June, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *D. Chabot*

Appeared on behalf of the Respondent:

- *L. Wong*

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

- (1) There were no procedural or jurisdictional matters raised by either party.

Property Description:

- (2) The property consists of an undeveloped land parcel of 4,876 s.f. located in the Beltline district of SW Calgary. The site is used by the adjacent property for parking, and provides 13 stalls. The Land Use Classification is CCX. For assessment purposes, the sub-market area is described as NONRES BL1.

Issues / Appeal Objectives

- (3) The primary issue brought forward by the Complainant is market value, stating that the current assessment does not properly reflect the market value of the site. Currently, the land is used by the adjacent property for parking restricted to the tenants of the building. The Complainant is requesting a nominal value, arguing that the value of the site is captured in the assessment of the adjacent building.
- (4) Alternatively, the Complainant is requesting a 15 per cent reduction to the existing assessment because of restricted/limited access. It is the Complainant's position that the subject has no direct street access except across the adjoining parcel, and therefore qualifies for a limited/restricted access influence.

Complainant's Requested Value:

- (5) \$1,000

Board's Decision:

- (6) The assessment is confirmed at \$487,500.

Legislative Authority, Requirements and Considerations:

- (7) This Board derives its authority from section 460.1(2) of the Municipal Government Act,

being Chapter M-26 of the revised statutes of Alberta.

(8) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAC), states as follows;

"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"

(9) Section 467(3) of the Municipal Government Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

Position/Evidence of the Parties

Complainant's Position:

(10) The Complainant's position is that the subject property is used exclusively for parking by the tenants of the adjacent property. The site is 'linked' to the building by virtue of a caveat registered against the subject's Certificate of Title. The site is fenced and has a security, key activated gate that prevents public access. The Complainant further argues that the assessment is already included in the assessment of the adjoining office buildings.

(11) In support of the requested assessment, the Complainant presented a sample of five 'linked' parking parcels with assessments of \$750 to \$1,000. These sites are near, but not necessarily adjoining, the development with which they are linked. Sizes of these sites ranged from 5,684 s.f. to 49,567 s.f.

Respondent's Position:

(10) The Respondent takes the position that a parking parcel can only be linked to an adjoining development by virtue of a Development Permit condition. Such is not the case in the subject instance.

(11) The Respondent submitted the same five linked parcels that were submitted by the Complainant. In four of the five examples, the parking parcels are linked to the "parent" parcel because they provide required parking in satisfaction of a development approval condition. In the fifth instance, the assessment has been amended to an amount that presumably reflects market value, and is no longer at a nominal rate.

(12) The Respondent's valuation of the subject was calculated by use of the sales comparison approach, utilizing the City's adopted rate of \$100 per s.f. in zone BL1. No data in support of the rate was submitted. However, the Complainant neither questioned or disputed the rate.

Board's Reasons for Decision:

(9) The parking on the subject property in favour of the adjacent building is protected by caveat, registered against the subject's Certificate of Title. However, it is not part of a development approval condition. The Caveat refers to a lease to the adjacent tenant, who is no longer in occupation of the building. Whether or not the lease has the same legal effect as a development approval condition was not addressed by the parties. The Board is of the

opinion that it does not.

(10) This Board has no jurisdiction to adjudicate the assessment of the adjoining "parent" property. However, the Board notes that the assessment on that property, calculated on the income approach, has been reduced by the exclusion of 13 parking stalls in the income calculations.

(11) The total of the two separate assessments is almost equal to the amount that the single assessment would have been if the subject's 13 stalls had been included in the parent parcel assessment calculations.

(12) In the Board's opinion, assigning a separate assessment to each of the two parcels has done nothing more than distribute the assessment, and hence the tax burden, more fairly and equitably between the two property owners.

(13) As for the alternative request, this Board is of the opinion that the subject does not qualify for a limited/restricted access reduction. No doubt, there is limited access to the subject in the current configuration. That, however, is simply to accommodate the current parking arrangement. No evidence to the fact that the Planning authorities would refuse direct access to the subject site if there was an alternative use has been submitted. And, there appears to be nothing to physically impede the provision of direct access.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF July 2013.



Jerry Zezulka

Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1.	C1Complainant Disclosure
2.	R1Respondent 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 Administrative Use Only

Decision No. CARB 72722P/2013			Roll No. 068118504	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land	Required parking for adjacent building.	N/A	Valuation Methodology