



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:

National Trust Company 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: 076050806

LOCATION ADDRESS: 1803 36 ST SE

FILE NUMBER: 72744

ASSESSMENT: \$335,000

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:

- *R. Farkas*
- *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 parking lot, located in the Southview community of SE Calgary with a land use designation of Direct Control District. According to the information provided, the property contains no improvements and has an assessable land area 5,325 square feet (sf).

[3] The subject is assessed using the Sales Comparison Approach to value at a rate of \$63.00 per sf of land area.

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 parking lot serves as the required parking for a neighbouring CIBC bank property. 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 in part and the assessment is revised at \$251,000.

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 parking lot serves as the required parking for a neighbouring CIBC bank property. 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 112 page disclosure document that was entered into the hearing as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence and argument with respect to this issue:

[8] An uncertified copy of Land Use Bylaw 2P80, dated July 23, 2007. The Complainant calculated that the neighbouring CIBC bank would require 16 parking spaces of which 10 are provided by the subject.

[9] A copy of "Amendment No. 2958 – LUGC/583" dated August 8, 1977. The land use amendment requires the subject to have a restricted use as a parking lot.

[10] Various examples of 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:

[11] The Respondent provided a 22 page disclosure document that was entered during the hearing as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[12] That the adjacent CIBC bank property was built in 1967, prior to the development of the 2P80 Land Use Guideline and therefore the 2P80 would not apply. That there was no evidence provided by the Complainant that indicates the subject is necessary to meet the CIBC bank's parking requirements.

[13] A City of Calgary influence adjustment chart and definitions that included Land Use Restrictions. The definition stated that the Land Use Restriction "is applied to properties which, as a result of.....Direct Control Bylaw, have restricted development potential..."

CARB Findings:

The CARB finds the following with respect to this issue:

[14] That the subject does not necessarily provide the required parking for the neighbouring CIBC bank parcel. The CARB finds no evidence that the subject parcel provides the neighbouring CIBC bank parking requirements.

[15] That the subject has land use restrictions as defined by the Respondent.

Board's Reasons for Decision:

[16] The CARB does not accept that the subject serves to provide the necessary parking for the neighbouring parcel. The CARB agrees with the Respondent that no evidence was provided by the Complainant that would indicate such a requirement exists.

[17] The CARB finds that the subject is limited in use as a parking lot according to Amendment No. 2958 – LUGC/583, dated August 8, 1977. Accordingly, a 25% land use restriction negative influence should be applied to the subject's current assessment.

DATED AT THE CITY OF CALGARY THIS 23rd 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) 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		