



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:

1576571 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:	068140201	068140300	068140508	068140706
LOCATION ADDRESS:	126	120	114	104
	all on 13 Avenue SW			
FILE NUMBER:	72760	72762	72763	72766
ASSESSMENT:	\$1,120,000	\$3,020,000	\$2,570,000	\$1,760,000

This complaint was heard on 18 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*
- *R. Ford*

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

(1) This is a complaint against the assessment of four separate, but adjacent land parcels, with a common owner. At the outset of the hearing, because of the commonality of issues and evidence, both parties agreed to have the four parcels heard simultaneously.

Property Description:

(2) The properties consist of undeveloped land parcels located in the Beltline district of SW Calgary. The Land Use Classification is CC-X. The non-residential zone, or sub-market, is BL2. Parcel sizes and assessments are as follows;

<u>Roll #;</u>	<u>Size</u>	<u>Configuration</u>	<u>Assessment</u>	<u>Assessment per s.f.</u>
068140706	10,505 s.f.	corner	\$1,760,000	\$167.54
068140508	16,100 s.f.	interior	\$2,570,000	\$159.63
068140300	18,905 s.f.	interior	\$3,020,000	\$159.75
068140201	7,001 s.f.	interior	\$1,120,000	\$159.98

Issues / Appeal Objectives

(3) The single issue brought forward by the Complainant is market value, stating that the current assessment does not properly reflect the market value of the site.

Complainant's Requested Value:

(4)	<u>Roll #;</u>	<u>Size</u>	<u>Assessment</u>	<u>Assessment per s.f.</u>
	068140706	10,505 s.f.	\$1,080,000	\$103.00
	068140508	16,100 s.f.	\$1,650,000	\$103.00
	068140300	18,905 s.f.	\$1,940,000	\$103.00
	068140201	7,001 s.f.	\$720,000	\$103.00

Board's Decision:

(5) The assessments are confirmed as follows;

<u>Roll #</u>	
068140706	\$1,760,000
068140508	\$2,570,000
068140300	\$3,020,000
068140201	\$1,120,000

Legislative Authority, Requirements and Considerations:

(6) 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.

Position/Evidence of the Parties**Complainant's Position:**

(7) The subject parcels sold as a single block to the current owners in November, 2011, for a total consideration of \$5,400,000, or \$102.84 per s.f. The transaction was arms-length, and occurred about seven months prior to the effective date. The Complainant submits that this selling price best represents the market value of the property, and should hence represent the current assessment.

(8) The sale of the subject is the only transaction submitted by the Complainant.

Respondent's Position:

(9) The Respondent submits that the assessed rate for all land within sub-market BL2 is \$160.00 per s.f., and that to change the assessment would disturb equity within the zone.

(10) For support, the Respondent submitted four Beltline land sales, including the subject, as well as one post valuation date sale. Three of the four sales reflect influence adjusted per s.f. selling prices of \$175.20, \$186.22, and \$158.08. The post valuation date sale reflects a price of \$172.57 per s.f. Those amounts compare to the subject's influence adjusted price of \$97.88 per s.f.

(11) Other transactions submitted by the Respondent include the following;

a) 109 to 121 - 13 Avenue SW; 31,494 s.f., sold in October, 2012 for \$203 per s.f. (post facto, court ordered sale)

b) 204 - 10 Avenue SW; 19,795 s.f., sold in June, 2012 for \$156.60 per s.f. (Court ordered land sale, but actively listed for sale by a reputable broker prior to the sale)

c) 1002 - 14 Street SW; 20,940 s.f. sold in November, 2011, for \$167 per s.f. (Court ordered sale, improved with an older building occupied as the Lighting Centre.)

Board's Reasons for Decision:

(11) The sizes of the comparables submitted by the Respondent bracket the overall size of the four subject parcels.

(12) Four of the five comparables shared the same Land Use Class, and are located in the same sub-market zone as the subject.

(13) All of the transactions are relatively current, within two years of the effective date of valuation.

(14) This Board is also persuaded by the post facto transaction submitted by the Respondent, as well as three court ordered sales. The typical approach taken by the courts and quasi-judicial bodies on post facto sales has been to attribute comparatively little weight to these as evidence of value. Simply stated, the post facto evidence was not available at the time, so it could not possibly have been used in the preparation of the assessment or valuation. As such, it cannot form the basis for a new conclusion or opinion of value. At the same time, this type of

evidence can be useful in testing the validity of a pre-existing conclusion, as in this case.

(15) The court ordered sales tend to substantiate the existing assessment. Courts typically resist the use of court ordered sales in establishing value. However, court ordered sales usually result in prices lower, not higher, than market value.

(16) Section 2 of Part 1, of the Matters Relating to Assessment and Taxation Regulation (MRAT) 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."*

With the exception of the sale of the subject, all of the sales evidence submitted indicates that the assessment of the subject fully complies with the provisions of Section 2. The subject sale is clearly an "outlier", and is not accepted by this Board as being reflective of typical market conditions for similar properties.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF July 2013..



Jerry zezulka

Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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| 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 Administrative Use Only

Decision No. 0887/2012 - P			Roll No. 116013608	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land	Highest and Best Use	N/A	Valuation Methodology