



## **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:

***Richard Lee***  
***(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:** 045245305  
**LOCATION ADDRESS:** 1102 16 AV NW  
**FILE NUMBER:** 72815  
**ASSESSMENT:** \$16,250

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 small rectangular shaped parking lot. The subject is actually owned by the City of Calgary and is leased or licensed for the exclusive use of the assessed person. According to the information provided, the subject provides a minor portion of the parking to the adjacent Earl's Restaurant. It has an assessable land area 1,000 square feet (sf).

[3] The subject is assessed as Commercial Corridor (C-COR) land using the Sales Comparison Approach to value.

**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 has limited use and is reserved for future road expansion. 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 has limited use and is reserved for future road expansion. 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 69 page disclosure document that was entered into the hearing as "Exhibit C1". In addition, the Complainant requested that all argument made on this issue in hearing file #73238 be brought forward to this hearing. Therefore the Complainant, along with Exhibit C1, provided the following evidence and argument with respect to this issue:

[8] Copies of the property assessment notices from 2011 and 2013. The notices showed that the subject property was assessed with nominal values from 2010 to 2012.

[9] 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 parking to the neighbouring shopping centres.

[10] A copy of a 2009 Assessment Review Board decision that reduced the subject's assessment to a nominal value from an original \$75,000 assessment value. The Complainant argued that the subject has little utility other than serve has a parking lot to the adjacent restaurant.

**Respondent's Position:**

[11] The Respondent provided a 44 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 and #72478 be brought forward to this hearing. Therefore the Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[12] 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.

[13] 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.

**CARB Findings:**

The CARB finds the following with respect to this issue:

[14] 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:**

[15] The CARB believes that although the subject has no developmental permit restrictions for parking, the CARB believes that its marketability due to its small size and location would reduce its fair market value to a nominal amount.

[16] The CARB cannot envision a situation where the current owner could sell the subject, as its size and location limitations restrict its marketability. Further, the subject's value is likely captured in the assessment of the neighbouring restaurant it serves.

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:**

<b>NO.</b>	<b>ITEM</b>
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)**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
CARB	Other Property Types	Vacant Land		