



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:

***Cougar Property Management Inc. (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Chilibeck, PRESIDING OFFICER
T. Usselman, BOARD MEMBER
T. Livermore, 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: 135000404

LOCATION ADDRESS: 5515 – 98 AV SE

FILE NUMBER: 72985

ASSESSMENT: \$8,550,000.

This complaint was heard on 12th day of June, 2013 at the office of the Assessment Review Board in Boardroom 3 on Floor Number 4, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *D. Mewha*

Appeared on behalf of the Respondent:

- *I. McDermott*
- *T. Nguyen*

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

[1] Neither party raised any objections to a member of the Board hearing the subject complaint.

[2] Neither party raised any procedural or jurisdictional matters.

Preliminary Matter:

[3] At the outset of the hearing, both parties agreed that the assessed land area should be corrected from 19.60 acres to 19.14 acres.

Property Description:

[4] The subject is an improved parcel of developed land of 19.14 acres designated I-G, located at the south east corner of 98th avenue and 52nd street adjoining the irrigation canal and located in the south east quadrant of the City of Calgary.

[5] The subject is assessed at its land value only; no value is attributed to the buildings. The assessment is calculated using the I-G base land rate of \$585,000 less an adjustment for diminishing returns (size) and a negative adjustment for South Foothills local improvement issues. This results in the corrected assessment of \$8,380,000 for the corrected area of 9.14 acres.

Issues:

[6] The Complainant identified several matters that apply to the complaint on the complaint form and attached a schedule listing several reasons (grounds) for the complaint. At the outset of the hearing the complainant advised that only the matter of the assessment amount is under complaint and identified the following issue:

- 1) The subject assessment is in excess of its market value;
 - i. The direct sales approach to value indicates the land value should be \$350,000 per acre.
 - ii. The aggregate assessment per acre is not equitable with assessments of similar comparable properties.

- iii. An influence adjustment should recognize limited servicing and restricted access

Complainant's Requested Value: \$6,700,000.

Board's Decision:

- [7] The Board's decision is to change the assessment to \$8,380,000.

Legislative Authority, Requirements and Considerations:

- [8] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of 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).

- [9] For purposes of the hearing, the CARB will consider MGA Section 293(1):

In preparing the 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*

- [10] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 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*
- (c) must reflect typical market conditions for properties similar to that property*

Position of the Parties

Complainant's Position:

- [11] The Complainant argued that the market value of the subject land is \$350,000 per acre as supported by three sales of large parcels of land; 24, 30 and 56 acre parcels.

- [12] Three 2011 sale comparables were provided in support for their requested rate. These sales were time adjusted to the valuation date of July 1, 2012 and the aggregate rate adjusted to reflect a fully serviced rate. After the adjustments the aggregate rates range from \$210,000 to \$340,000 per acre for the parcels, which parcels range from 24 acres to 56 acres. It was asserted that these sales support their request of \$350,000 per acre.

[13] Four historic sale comparables (2007 & 2008) were provided in support of the rate determined from 2011 sales. In context, the rate per acre applied for the July 2008 valuation was \$540,000 per acre versus the July 2012 valuation of \$585,000 per acre.

[14] No adjustments were made to the historic sales, which range from 22 acres to 29 acres with a median of \$332,000 per acre.

[15] Several comparables from north Calgary and south east Calgary were provided to show that influence adjustments for restricted access and partial services were provided for circumstances similar to the subject, in support for the claim that the subject should be negatively adjusted by 25%.

[16] A map was referenced to support the claim that all municipal utility services are not available or located adjacent to the subject parcel.

[17] It was argued that access to the subject can no longer be made from 98 avenue and 52 street due to the new bridge constructed over the irrigation canal adjacent to the west boundary of the subject. Access to the subject is made via 94th avenue and south on 54th street.

Respondent's Position:

[18] The subject is assessed at the serviced I-G industrial rate of \$585,000 per acre less an adjustment for diminishing returns (size adjustment).

[19] A list of ten sale comparables (2011 & 2012) of I-G parcels from south east Calgary was provided, with the parcels ranging in area from 1.5 acres to 8.8 acres. The sale prices were time adjusted which resulted in a median rate of \$595,000 per acre and an average of \$585,979 per acre in support of their base rate of \$585,000 per acre.

[20] The Complainant's 2011 sale comparables were refuted on the basis that one sale is of land zoned as I-H versus the subject at I-G, and that the analysis did not recognize diminishing returns when the parcels are greater than ten acres in area.

[21] The sale of 9620R – 68 St. is actually the combination of two parcels of land that are narrow and long, each having a width of 252 feet and a depth of 2,593 feet. The configuration (shape) and area of 30 acres of this comparable is not similar to the subject.

[22] The sale of 10617 – 24 St. is zoned I-H which makes it not similar to the subject. The I-G lands are valued at a base rate of \$585,000 per acre whereas the I-H lands are valued at a base rate of \$350,000 per acre.

[23] The sale of 6335 – 57 St. is for a parcel of land containing 56 acres which is significantly larger than the subject.

[24] The Complainant's sales are of parcels containing 30, 24 and 56 acres versus the subject at 19 acres. The overall sale prices should be trended to recognize diminishing returns as parcel size increases above 10 acres.

[25] The third sale is of a 56 acre parcel and an adjustment for the size difference should be made to compare to the subject of 19 acres. The calculation of the assessed value for this comparable using the diminishing returns methodology showed a reasonable relationship between the assessment and the time adjusted sale price.

[26] The Respondent argued that the Complainant's comparables are not similar to the subject in terms of influence adjustments. The maps provided in evidence show partial servicing for the south east comparables which supports the adjustment for partial services in those

cases.

[27] The Respondent argued the subject land is fully serviced as shown on the map provided in evidence. This map shows services available adjacent to the west boundary of the subject.

[28] Access is from 54th street via 94th avenue which is considered to be not restricted as 54 street is used to access several other parcels immediately north of the subject.

Board's Reasons for Decision:

[29] The Board is not convinced to change the rate per acre as requested by the Complainant.

[30] The Board was persuaded by the Respondent's argument that the sale of 9620R – 68 St. is not comparable to the subject because of its shape, access, and partial servicing.

[31] Also, the sale of 10617 – 24 St. is not comparable to the subject because it is zoned I-H versus the subject zoned at I-G. The base rate for I-H land, at \$350,000 per acre, is significantly less than the base rate for I-G land, at \$585,000 per acre.

[32] The third sale was identified by both parties as the best comparable. The Complainant argued that the final adjusted rate of \$338,000 per acre supports the requested rate of \$350,000 per acre.

[33] However, the Respondent showed that the time adjusted sale price \$9,506,000 (\$338,000 per acre) is supported by applying the I-G base of \$585,000 per acre and adjusting for diminishing returns (size) for a total value of \$9,957,578 for an assessment to sales ratio of 0.95.

[34] The Board finds this analysis convincing; it shows the base rate and the diminishing returns methodology is correct.

[35] The Board finds that it is generally reasonable that larger parcels will sell for less per acre than smaller parcels. This is supported by the Respondent's analysis of the sale for 6335 – 57 St. This analysis also shows that it is not reasonable to make comparisons using the overall/aggregate rate per acre as this does not take into consideration the differences in area.

[36] The Board placed very little weight on the Complainant's equity comparables. There was no analysis of these sales provided by the Complainant to show the Board that they support the Complainant's position that the subject is not equitably assessed. The Board finds most of the comparables are not fully serviced and some of the sales are dated being transacted in 2008 and 2009.

[37] The Board is not convinced by the Complainant's argument that the subject has limited services and restricted access. The Board accepts the Respondent's argument supported by the respective maps and finds the maps persuasive that the subject is serviced from 52nd street.

[38] The Board finds the access from 54th street is not restrictive. This street is used to access several other parcels and notes the "bubble" at the intersection of 54th street and 98th avenue which appears to provide additional room to access the subject.

[39] The Board accepts the correction of subject's area to 19.14 acres and the Respondent's revised assessment.

[40] Based on the foregoing, the Board's decision is to change the assessment to \$8,380,000

DATED AT THE CITY OF CALGARY THIS 10th DAY OF JULY 2013.

A handwritten signature in black ink, appearing to read 'M. Chilibeck', is written over a horizontal line.

M. Chilibeck

Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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.*

CARB Identifier Codes

Decision No. 72985P-2013			Roll No. 135000404	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Industrial	Vacant Land	Sales Approach	Land Value

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