

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:

**AURA TOWER DEVELOPMENTS LTD (*as represented by Altus Group Limited*),
COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

M. Axworthy, PRESIDING OFFICER
M. E. Bruton BOARD MEMBER
D. Morice, 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: 201050119
LOCATION ADDRESS: 935 8 AV SW
FILE NUMBER: 73045
ASSESSMENT: \$5,130,000.

This complaint was heard on the 23rd day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *M. Cameron (Altus Group Limited)*

Appeared on behalf of the Respondent:

- *K. Gardiner (City of Calgary)*

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

- [1] No procedural or jurisdictional matters were raised.

Property Description:

- [2] The property is located in the Downtown 2 East (DT2E) Non- Residential Zone (NRZ) and is developed as a surface parking lot in conjunction with the property immediately to the east. It has an assessable land area of 17,438 square feet (sq. ft.) and is assessed as a "land only" (LO) parcel.

Board's Decision:

- [3] The land base rate is reduced from \$310 per sq. ft. to \$289 per sq. ft. resulting in a revised assessment of **\$4,780,000.**

Legislative Authority, Requirements and Considerations:

- [4] Under the Act, 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 460 (1)(a).

- [5] Both parties submitted background information and evidence in the form of photographs, aerials site maps as well as extensive information on the issues at hand. In the interest of brevity, the Board will restrict its comments to those items the Board determines to be most relevant to these issues.

- [6] The Board was presented with a number of previous decisions of Assessment Review Boards. While the Board respects the decisions made by those Boards, it is mindful that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless the issues and evidence are found to be timely, relevant and materially identical to the subject complaint.

Issues:

[7] The Complainant argued the following issue at the hearing:

The land rate applied to vacant land in the DT2 East is not reflective of market value and should be changed from \$310 per sq. ft. to \$238 per sq. ft.

Complainant's Requested Value: \$3,940,000

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

[8] The assessed vacant land rate for the DT2E portion of the Downtown (\$310 per sq. ft.) is too high and should be \$238 per sq. ft. In support of the requested reduction the Complainant provided two market transactions [C1p. 21] for CM-2 zoned property in DT2E.

[9] In the case of 617 8 AV SW (Globe Theatre) the Complainant argued that the value of the improvements should be deducted from the sale price to arrive at a residual land value. The Complainant employed the Marshall and Swift Costing Method to determine the value of the improvements [C1 p.25].

[10] With the value of the improvements for the Globe Theatre removed, the Complainant stated that the median land rate is \$238.78 and the weighted average is \$240.59, as shown in the following table [C1.p 21]:

Address	Date sold	Area (sq. ft.)	Sale Price	Rate (\$/sq. ft.)	Improve-ment Value	Underlying Land Value	Rate \$/sq.ft.
617 8 AV SW	15-Nov-11	6,172	\$1,675,000	\$271.39	\$624,783	\$1,050,217	\$170.16
718 8 AV SW	24-Jan-12	6,506	\$2,000,000	\$307.41	----	\$2,000,000	\$307.41
						Median	\$238.78
						Weighted	\$240.59

[11] The Complainant noted that the Respondent had used both these sales in its 2013 Downtown "DT2 East" Land Sales analysis [R1 p.47], but had included a third land sale at 919 5 AV SW that the Complainant objected to.

[12] The Complainant argued that the sale of 919 5 AV SW at \$435 per sq. ft., was questionable as the property has been sold five times since 2006 and was recently transferred back to the original owners. The Complainant referred to recent CARB decisions that supported the exclusion of the sale at 919 5 AV SW.

[13] The Complainant noted that if the Board was to find that the value of the improvements should not be deducted from the sale price of 617 8 AV SW; the median value of the two sales would be \$289 per sq. ft. The Complainant provided an alternate requested assessment

calculation based on \$289 per sq. ft. [C1 p. 61] for the Board's information and consideration.

[14] The Complainant objected to the Respondent's reference to a sale in Eau Claire in support of its assessment for two reasons: the Eau Claire NRZ is a completely different market area and the sale was "post facto" to the July 1, 2012 assessment date.

Respondent's Position:

[15] In support of its position, the Respondent provided the following market sales [R1 p.47], two of which are common to both parties (617 8 AV SW and 718 8 AV SW).

Address	Date sold	Property Type	Zoning	Sale price	Lot size (sq. ft.)	Price/sq. ft.
919 5 AV SW	30-Nov-10	LO	CM-2	\$4,250,000	9,764	\$435.27
617 8 AV SW	15-Nov-11	LI	CM-2	\$1,675,000	6,172	\$271.39
718 8 AV SW	24-Jan-12	LI	CM-2	\$2,000,000	6,506	\$307.41
					Mean	\$338.02
					Median	\$307.41
					Weighted mean	\$353.13

[16] The Respondent noted that paragraph 18 of CARB decisions 73268 & 73270/P-2013 [C1 p.41] states that "...the board agrees with the Respondent that the incorrect building class was used in calculating the cost of the Globe Cinema building." The Respondent argued that for this reason, the Marshall and Swift calculations applied to 617 8 AV SW should be disregarded.

[17] The Respondent stated that in its opinion, the sale at 718 8 AV SW was most reflective of market value as it was a sale of land only and was closest to the valuation date.

[18] The Respondent referenced a post facto land sale (11/14/2012) in Eau Claire at an adjusted sale price of \$406 per sq. ft. [R1 p. 98]. The Respondent noted that the assessed land rate in Eau Claire at \$310 per sq. ft. [R1 p.42] is the same as DT2E and suggested that this post facto sale in Eau Claire was evidence of a trend in land values.

Board's Reasons for Decision:

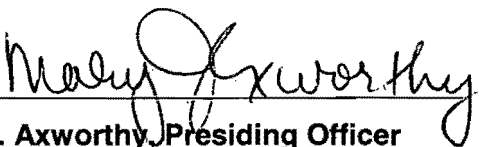
[19] The Board agrees with the Complainant that the sale of 915 5 AV SW is questionable and should not be included in the analysis.

[20] The Board does not agree with the Complainant's position that the value of the improvements for 617 8 AV SW should be deducted from the sale price to arrive at a land only value.

[21] Therefore, the Board finds that the two properties common to both parties should be used to determine market value, yielding a median value land base rate of \$289 per sq. ft. as shown in the following table:

Address	Date sold	Area (sq. ft.)	Sale Price	Rate (\$/sq. ft.)
617 8 AV SW	15-Nov-11	6,172	\$1,675,000	\$271.39
718 8 AV SW	24-Jan-12	6,506	\$2,000,000	\$307.41
			Median	\$289. 40

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF October 2013.


M. Axworthy, Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. 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 Administrative Use Only

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Vacant land	Downtown	Land only rate	