

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: 201050127

LOCATION ADDRESS: 923 8 AV SW

FILE NUMBER: 73048

ASSESSMENT: \$4,700,000.

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] The Respondent and the Complainant asked that all evidence, argument and testimony presented in CARB 73045/P-2013 with respect to land rates be carried forward to CARB 73048/P-2013. The Board agreed with this request.

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 west. It has an assessable land area of 15,188 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 **\$4,380,000.**

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.; and
 - There is an inequity in assessment between the adjoining parcel at 935 8 AV SW.

Complainant's Requested Value: \$3,250,000

ISSUE #1: Should the land rate be reduced from \$310 to \$238 per sq, ft.?

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

ISSUE#2: Is there an inequity in assessment between the subject and the adjoining parcel at 935 8 AV SW?

Position of the Parties

Complainant's Position:

[22] The Complainant stated that there is an inequity in assessment with the adjoining parcel at 935 8 AV SW which was assigned a Transition Zone adjustment of -10%. The Complainant argued that because the subject was operated as a single parking lot in conjunction with the adjoining parcel, the subject should also benefit from the same adjustment.

[23] In support of its argument, the Complainant provided two examples where it attested that the Respondent had applied a Transition Zone adjustment to interior sites; 1009A, B and C 9 AV SW and 725 9AV SW [C1 pp. 40, 41]. The Complainant maintained that these examples cannot be reconciled with the assessment of the subject property, and the Respondent had been inconsistent in its application of this adjustment.

Respondent's Position:

[24] The Respondent stated that it is the policy of The City of Calgary to apply a Transition Zone adjustment only to the parcel which abuts or is contiguous to the Transition Zone boundary. The Respondent stated that 935 and 923 8 AV SW are separately titled parcels of land, and that according to this policy, the subject was not eligible for this adjustment.

[25] With respect to the Complainant's argument that the Respondent has been inconsistent in its application of this policy, the Respondent replied that the parcel at 725 9 AV SW is unique as it is three blocks in length and is held under a single title. The Respondent stated that as a result of an earlier CARB decision, a Transition Zone adjustment had been applied to approximately one third (one block) of the parcel.

[27] The Respondent further noted that the Transition Zone adjustment had been applied to the three parcels at 1009 9 AV SW as they were either on or adjacent to the 9 St SW right-of-way which is the boundary line between DT2W and DT2E.

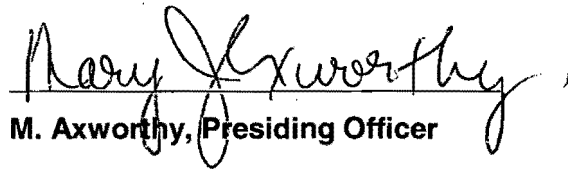
[28] The Respondent referenced a recent CARB decision 71562/P-2013 that supported this

approach [R1 pp. 22-25].

Board's Reasons for Decision:

[29] The Board finds that the Respondent has been consistent in its approach to applying the Transition Zone adjustment and agrees with the Respondent that this adjustment should not be applied to the subject parcel as it is separated from the 9 St. SW boundary line between DT2E and DT2W by a separately titled, adjacent parcel at 935 8 AV SW.

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				