



## **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:**

***Genstar Titleco Limited (as represented by Altus Group Ltd.) COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***K. Thompson, Presiding Officer***  
***K. Farn, Board Member***  
***R. Cochrane, 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:

<b>ROLL NUMBER:</b>	<b>415035609</b>
<b>LOCATION ADDRESS:</b>	<b>11306 Harvest Hills Bv NE</b>
<b>FILE NUMBER:</b>	<b>73140</b>
<b>ASSESSMENT:</b>	<b>\$22,500</b>

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

Appeared on behalf of the Complainant:

- M. Cameron Agent, Altus Group Lt.
- D. Mewha Agent, Altus Group Lt.

Appeared on behalf of the Respondent:

- S. Cook Assessor, City Of Calgary
- M. Jankovic Assessor, City Of Calgary

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

[1] Complainant requested a one hour recess at the outset of the hearing due to scheduling difficulties and an additional break after that to obtain agent authorization. Authorization was presented and the Board proceeded to hear the merits of the complaint.

[2] The Complainant, in their evidence package, stated one of their issue's was to request the subject property be non assessable or if assessable be exempt from taxation. This issue was contested by the Respondent at the hearing as it never appeared on the original complaint form. The Complainant withdrew this issue in its entirety, stating the only issue for this property would be market value.

**Property Description:**

[3] The subject property is a 1.15 acre parcel of land designated Special Purpose – Community Service (Commercial - Region 3, Residential – 1 Dwelling). The parcel is situated in the community of Panorama Hills between four lanes of roadway. The property is assessed with a property use of Commercial and a sub property use of Ornamental Parks/Signage Lot. The subject property is assessed on the Sales Comparison Approach to Value with the 1.15 acres valued at \$20,000 an acre. The 2013 assessment is \$22,500.

**Issues:**

The subject property has no market value and should be assessed at a nominal value.

**Complainant's Requested Value: Nominal Value of \$1,000.**

**Board's Decision:**

[4] The assessment is confirmed at \$22,500.

**Legislative Authority, Requirements and Considerations:**

[5] The *Municipal Government 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).

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

[6] The Complainant contends that this property is land used for the public benefit. It is a median set between two roads, with a section of it taken up by a paved turn lane. The Complainant stated that this parcel has a special purpose land use, is not developable and has no market value as there would not be a willing buyer.

[7] The Complainant presented the subject properties Land Title Certificate which showed no value except the original principal amount of \$160,000,000 [11-12, C1]. The Complainant stated this value would represent the total subdivision.

[8] The subject properties assessment information and a number of aerial maps were presented to show the location, shape and size of the parcel [pg 14-26, C1].

[9] The subject property's Transfer of Land document was also presented by the Complainant showing a one dollar consideration. The property transferred from GA Developments to Genstar Titleco Limited in January of 2000 [pg 41-43, C1].

[10] The Complainant presented a list of 123 similar lots owned by Genstar which include the subject [pg 44-49, C1].

[11] The Complainant presented and referred to a number of Board Decision and an Alberta Court of Appeal Decision for the Boards consideration.

[12] The Complainant presented two further CARB Decisions in its Rebuttal.

**Respondent's Position:**

[13] The Respondent submitted assessment information for the subject property along with photographs and aerial maps [pg 13-19, R1]. The Respondent stated that this property was assessed at 20,000 per acre which translates to 43 cents per square foot. This is the lowest land rate currently used by the City and is the rate for any of this type of parcel city wide. The Respondent submitted block face maps with four comparable properties with the same sub property use [pg 22-26, R1]. The Complainant stated through questioning that no assessment information was provided with these properties nor was there any land use on the block face maps. The Complainant asked but did not receive a definition of a ornamental parks/signage lot.

[14] The Respondent included the subject properties Land Title Certificate [pg 28-30, R1].

[15] A number of Board Decisions were submitted for the Boards consideration. The Board notes the Queen's Bench case submitted in the evidence lacked relevance to the case.

[16] Through questioning the Respondent pointed out that the one dollar Transfer of Land in

the Complainant's package was between two related parties and therefore not arms length. The Complainant also pointed out that in line 3 of the Affidavit of Transferee it states "The present value of the land, in my opinion is \$11,232,955.00". The Complainant confirmed this transfer of land was for the subject parcel but stated the value was not correct.

**Board's Reasons for Decision:**

[17] The Board reviewed all the evidence presented by both the Complainant and Respondent. The Board notes that the nature of the submissions dictate that in some instances certain evidence will be deemed more relevant than others, the Board will restrict its comments to the evidence it deemed relevant. It must also be noted that while the Board pays heed to previous Board Decisions it is not bound by their decisions. The Board must decide this case based on the evidence and argument before it.

[18] The Board reviewed the evidence presented by the Complainant and determined that the Complainant has not met the burden of proof. The Board found nothing in the evidence to convince it, to any level of satisfaction, that the requested value of \$1000 was a more correct value than \$22,500. The Board believes that both of these values represent a nominal amount for this property.

[19] The Board notes the transfer of land for one dollar was alleged to be between two related parties so would have little bearing on this case and the evidence from the Complainant, in the Affidavit of Transferee in fact states an opinion of value in far excess of the current assessed value. Again no proof was brought forward to support the contention that this value was not intended for this parcel. The Board gave some weight to the Respondents position that there is some value to the property as a potential space for signage and questioned the fact that the owner chose to hold on to it as opposed to dedicate it to the city. This however had no bearing on the decision as the Board heard no actual evidence as to why this was. With this said and in the absence of evidence to the contrary the Board confirms the assessment.

DATED AT THE CITY OF CALGARY THIS 21<sup>st</sup> DAY OF November 2013.



**K. Thompson**

**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. 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.*

Property Type	Property Sub-Type	Issue	Sub issue
Other property types	Vacant land	No market value	Nominal value