



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:

Brentwood Village Shopping Centre Ltd.
(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: 037181500
LOCATION ADDRESS: 3436 BRENTWOOD RD NW
FILE NUMBER: 73238
ASSESSMENT: \$507,000

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 long and narrow shaped residual land parcel directly abutting the Brentwood Village Shopping Centre, along the Brentwood Rd. NW to the corner at Charleswood Dr. NW. According to the information provided, the subject contains no improvements except for what appears to be a bus shelter and provides a minor portion of the parking to the adjacent shopping centre. It has an assessable land area 22,390 square feet (sf) and a land use designation of Commercial - Regional 3 (C-R3).

[3] The subject is assessed using the Sales Comparison Approach to value at a rate of \$63.00 per sf on the first 10,000 sf and \$31.00 per sf on the residual or remaining portion of the land. The total assessment value is then reduced for negative influences of shape (25%) and residual (25%).

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 is required for the adjacent shopping centre and could not be sold off separately. 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 is required for the adjacent shopping centre and could not be sold off separately. 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 92 page disclosure document that was entered into the hearing as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence and argument with respect to this issue:

[8] A series of overhead maps and pictures as well as landscaped pictures of the subject property. The pictures and maps clearly outlined the shape, position and access point of the subject relative to the adjacent shopping centre.

[9] Copies of the property assessment notices for 2009 and 2010. The notices showed that the subject property was assessed with nominal values (\$750) from 2008 to 2010.

[10] A copy of Land Use designation for C-R3 properties. The Complainant highlighted that the neighbouring shopping centre (also a C-R3 Land Use) has significant setback requirements, which would encompass the entirety of the subject property.

[11] A copy of the Land Title Certificate of the subject. The certificate showed that the subject's ownership transferred from the City of Calgary to the Brentwood Village Shopping Centre Ltd. on July 17, 2000. The stated value was \$250,000 and the consideration was "exchange of land". On the same date, the City of Calgary registered 3 instruments on Title having to do with utility right of ways.

[12] 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 access to the neighbouring shopping centres.

Respondent's Position:

[13] The Respondent provided a 57 page disclosure document that was entered during the hearing as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[14] 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.

[15] 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:

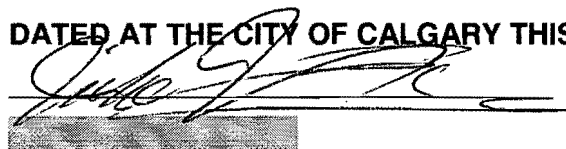
[16] That as in prior years, the 2013 Property Assessment Notice shows that the 2012 assessment was also assessed nominally at \$1,000. There appears to be a change in philosophy in the assessment approach of the subject in 2013 that is based entirely on whether or not the subject contains a restricted use as parking lot.

Board's Reasons for Decision:

[17] The CARB believes that the subject property provides a very necessary function and is an integral part of the adjacent shopping centre. There is a clearly visible access point to the shopping centre as well as providing some setback requirements that the shopping centre may be encumbered with. Although the subject has no developmental permit restrictions for parking, the CARB believes that its marketability due to its significant shape challenges and utility right of ways would reduce its fair market value to a nominal amount.

[18] The CARB cannot envision a situation where the current owner could sell the subject separately from the shopping centre itself. The subject seems to mesh completely with the neighbouring shopping centre parcel whose assessment value likely incorporates the subject's value.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF October 2013.



Presiding Officer

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

NO.	ITEM
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)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Other Property Types	Vacant Land		