

Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of the complaint against the amended property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

552861 Alberta Ltd. (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:

ROLL NUMBER:	068083609
LOCATION ADDRESS:	140 8 Av SW
FILE NUMBER:	73788
ASSESSMENT:	\$10,000,000 amended value

This complaint was heard on 21 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 Ltd.
- C. Harding Asset Manager, Steiner Properties Ltd.

Appeared on behalf of the Respondent:

- E Borisenko Assessor, City Of Calgary

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

[1] No procedural or jurisdictional matters were raised. The Board proceeded to hear the merits of the complaint.

Property Description:

[2] The subject property, known as the old Bank of Montreal Building, is located on the corner of Eighth Avenue and First Street in the Stephen Avenue Mall (in the DT8 zone of the downtown core). The building was constructed in 1931 and is classified as an A2 quality by the City of Calgary. The building has 44,791 square feet (sf) over four stories with a basement and is sited on a parcel size of 0.3 acres. The subject property is protected by Provincial Historic Designation, granted in 2003, which limits redevelopment options. The property requires substantial repair and retrofitting and is currently undergoing extensive renovations. This property has not been occupied since 2003 and significant structural issues have rendered the building unfit for tenant leasing. Leasing brochures state tenant possession was available August 1, 2012 however further structural issues were uncovered to prevented that from taking place. The Subject property is assessed on the Cost Approach to Value with a land value of \$4,845,377 and a partial development of \$5,500,000 for the building. The 2013 amended assessment is \$10,000,000.

Issues:

[3] This property was assessed as land value in previous years due to the extensive renovations and repairs needed for major structural issues. As of December 31, 2012 the building was not fit for occupancy. The value for 2013 should remain as land only.

Complainant's Requested Value: \$4,840,000

Board's Decision:

[4] After hearing all the evidence, the Board reduced the value of this property to \$4,840,000.

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 stated that the assessed value was based on a land value added to the estimate of \$5.5 million dollar building renovation/restoration costs as of February 2013. Information on the amount spent on the building was garnered by the City through a telephone conversation with C. Harding, Asset Manager for the property's owner Steiner Properties Ltd. The Complainant contends that the verbal estimate of renovation and restoration costs spent to date was as of February 2013 not December 31, 2012 (the valuation condition date). In addition the amount spent on the renovation/restoration would not equate to a dollar for dollar add to this building's market value. The Complainant argues that because this is a provincial historical site, the dollars spent to restore this building will likely exceed the resulting value of the property. The Complainant adds that this may be, in part, due to the considerable soft costs needed to deal with restoring a building of this age and nature.

[7] A June 2013 email from C. Harding, the Asset Manager for Steiner Properties was placed into evidence by the Complainant to indicate potential dates of tenant occupancy along with construction completion dates [pg 43, C1]. This email stated:

- 1) The roof construction permit received approval in fall of 2012 and work only started in mid May 2013 due to engineering changes. The email stated that without the roof there is no permanent mechanical in the building.
- 2) A binding deal with a tenant was in place since September 2012 but the space is not ready for occupancy. The basement, main and mezzanine floors will have tenants in by May 2014. The Complainant submitted the 2012 Assessment Request for Information (ARFI) to show that this property was vacant for the entire 2012 year.
- 3) The third floor will be ready for occupancy by September of 2013 and fourth floor by October 2013. Building permits were provided by the Complainant to show dates for interior/exterior alteration work along with the costs needed to make this building habitable [pg 44-45, C1].

[8] The Complainant provided interior photos of the building as of February 2013 [pg 47-49, C1 and pg 3-4, C2] and C. Harding, the Asset Manager for Steiner Properties Ltd. spoke to the extent of the renovations completed by the end of 2012 and what was currently left to complete. Essentially, as of December 31, 2012, the roof was not in place, the boiler was not functional and there were no tenants in the building. Further issues found in the basement of the building have pushed back the tenant occupancy to at least October 2013, with the retail area occupancy pushed back to a December 2013 timeframe, if not later. C. Harding noted that since the renovation commenced there have been a number of major issues uncovered and the total renovations will exceed the original \$10,000,000 estimate as a result.

[9] A summary of events for this building, from 1993 to 2013, was presented [pg 5-8, C2] indicating that from October to December of 2012 the construction work consisted of; replacement of the freight elevator, main sewer line, and the main electrical; along with plaster and paint restoration of the bankers hall, demolition of the basement area, and continuation of repairs to the third and fourth floor concrete and steel.

[10] The Marketing Brochure was included in the evidence [pg 50-69, C1]. The Complainant explained that while the possession date indicated August 01, 2012 this did not happen.

[11] The Complainant submitted four comparable properties; all are properties built in a similar time frame as the subject property, all are improved properties, and all are currently being assessed as land only [pg 70-85, C1]. Included were assessment summaries, photos and permits if applicable. These comparables are:

- 1) 515 Macleod Tr. SE – is the former CBE building. This property is currently vacant, and although not a heritage building it does have marketing issues as there is a large group of statues sited on the property that might not be approved to relocate. No building permits have been taken out on this site to date.
- 2) 610 8 Av SW - is known as the Baron building. This is an older property, built in 1949, that continues to lease out space.
- 3) 617 8 Av SW - is the site of the Globe Theatre which continues to operate as the Globe theatre.
- 4) 718 8 Av SW - is known as the James Building and was built in 1953.. This building has had major renovations. Basically they maintained the facade and refurbished the main and second floor and added a third and fourth floor. This was a \$2.25 million dollar renovation with an additional \$430,000 interior alteration and currently has no tenants. The building permits were supplied for the renovation of this property. In the Complainant's opinion this property is the best comparable to the subject. Further information in the form of the Commercial Edge report, marketing package and additional photos of this building were submitted in the rebuttal package [pg 9-17, C2]. This property sold in January of 2012 for \$2,000,000 and began the renovations in September 2012.

[12] A number of Board Decisions were presented including the subject properties 2009 ARB decision [pg 26-30, C1] changing the assessed value to the land only value. A Court of Queen's Bench 2013 ABQB21 decision was also included in the evidence provided by the Complainant.

[13] Assessment values for 2010 – 2012 were provided to show the value was based on land only [pg 31-34, C1].

Respondent's Position:

[14] The Respondent acknowledged that the subject property's renovation was not complete as of the December 31, 2012 condition date however stated that the amended assessment only reflects a partial development for the building value [pg 3-4, R1]. Further, the Respondent submitted that a lot of work had been completed on this building by the end of 2012 including; remediation, structural changes, electrical, and plumbing. The Respondent contends that by December 31, 2012, the renovations had definitely improved the property value. The Respondent contends that a potential purchaser would consider the dollars spent to date in the

in the purchase price. The partial building value was based on the dollars spent on the renovation as reported in a conversation in Feb 2013 with the Asset Manager C. Harding. The Respondent stated that additional information was requested at that time, but none was received by the City. A summary of the conversations with the Complainant was submitted [pg. 55, R-1]

[15] The Respondent provided the Assessment Summary Report to show the value of the property if it were 100% complete. The value, calculated on the Income Approach to Value would be \$17,000,000 [pg 57, R1].

[16] The subject property was marketed for leasing through the Taurus Group and Colliers International with a possession date of August 2012. These marketing documents were submitted into evidence. The Respondent also provided a newspaper article that stated the space would be ready for occupancy by early 2013 [pg 24-52, R1].

[17] Photographs and documents on the historical nature of this property were provided. The photographs were taken in February of 2013 during a physical inspection conducted by the City [pg 6-23, R1]. The building permit application was provided to show the total estimate of the cost of construction was \$10,000,000, as of the application date [pg 91, R1].

[18] With regards to the four comparable properties brought forward by the Complainant, the Respondent explained that each of these properties was put through the test of Highest and Best use. The income generated by these four properties was lower than the value of the land. This is why their market value is based on a land only value.

[19] The Respondent further stated that three of these properties sold for the approximate land value; 515 Macleod Tr SW sold for 36,500,000 in June of 2012 and is assessed at a land only value of \$35, 370,000; 617 8 Av SW sold for \$1,675,000 in November of 2011 and has an land only assessed value of \$1,190,000; and 604 8 Av SW sold for \$2,000,000 in September of 2012 and has a land only assessment of \$2,010,000. In addition, the Respondent noted that none of the comparables were located on Stephen Avenue nor were they provincial heritage sites [pg 81-91, R1].

[20] The Respondent provided the CARB1597/2011 decision which walked through the highest and best use parameters and spoke to when this principle should be applied. Complainant in this case argued that a property needed to meet four conditions of highest and best use to be changed to land only value. These conditions were; it must be physically possible; legally permissible; financially feasible and; maximally productive. The Respondent noted that the subject property is a provincial heritage site and that prevents it from meeting these conditions therefore the principle of Highest and Best use as Land only is not valid.

[21] Photos, assessment and marketing information were provided by the Respondent [pg 68, R1].

[22] The Respondent provided six sales of properties on the Stephen Av Mall along with some building and assessment information to show a \$457 sale price per square foot.

Board's Reasons for Decision:

[23] The Board reviewed all the evidence presented by both the Complainant and Respondent. The nature of the submissions dictate that in some instances certain evidence will be deemed more relevant than others so the Board will restrict its comments to the evidence it deemed relevant. It must 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.


[24] It is clear to the Board from the evidence and photographs that this property was not habitable by the December 31, 2012 condition date. This fact was not disputed by either party. As of the end of 2012 there was no roof, no heat, no interior walls or ceilings on the upper floors, issues with the basement and lastly no tenants.

[25] The Board does recognize that in many cases with a partially completed building that a partial building assessment added to the land value (based on the percentage the building is complete) is reasonable. This is not the case in this extremely unique property, with a very unique design and structure. This building is 80 years old, has a provincial historic designation and many remediation and structural issues. It is not known what it will take to complete it albeit it appears this might occur in the near future. This is a difficult development process and the property owners are working with multi jurisdictional authorities to get it complete. To estimate the value of the building at the amount verbally stated in a phone conversation is not realistic, however the Board is disappointed to find out that the property owners wouldn't have kept the assessor apprised of the property's progress.

[26] The Board understands that there was marketing for the property that made it appear it was almost ready for tenancy. Testimony today shows this is not the case. The property is still not occupied by a single tenant.

[27] All that said, due to the uniqueness of the subject property and the state it was in at the end of 2012 the Board considered and rejected the contention that the monies spent to date would impact market value. It appears from testimony that less than a third of the renovation budget was spent by that period of time and given the additional issues found in the building during renovation/rehabilitation the Board believes that the most appropriate value for the 2013 assessment would be the value of the land. In the case of a Heritage Building, major construction and possibly tenant occupancy needs to occur to have the property fairly assessed at land plus improvements.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF November 2013.


K. Thompson

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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.*

Property Type	Property Sub-Type	Issue	Sub issue
Retail	Stand alone	Cost approach	Highest and best use