



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:

**EIN-GEDI INVESTMENTS LTD.,
HAIFA INVESTMENTS LTD.,
NATANYA INVESTMENTS.,
AVIVA HOLDINGS LTD.,
(as represented by Altus Group),
COMPLAINANT**

and

**The City Of Calgary,
RESPONDENT**

before:

**R. Glenn, PRESIDING OFFICER
B. Bickford, BOARD MEMBER
Y. Nesry, 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 2014 Assessment Roll as follows:

ROLL NUMBER:	091027607
LOCATION ADDRESS:	4280 13A St SE
FILE NUMBER:	73959
ASSESSMENT:	\$343,500

This complaint was heard on Thursday, the 31st day of July, 2014 at the offices of the Assessment Review Board located at Floor Number 4, at 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 4.

Appeared on behalf of the Complainant:

- D. Mewha, Agent, Altus Group

Appeared on behalf of the Respondent:

- T. Luchak, Assessor, The City of Calgary
- D. Gioia, Assessor, The City of Calgary

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

[1] There were no questions or issues of Jurisdiction or Procedure raised prior to, or during the hearing. There were no objections voiced to the composition of the Board as it was then constituted.

Property Description:

[2] The subject property is a 1.14 acre parcel of bare land with a "Limited Development" Influence, zoned I-R, I-H Use, located in the community of Alyth/ Bonnybrook.

Issue(s) as stated by the parties:

[3] Whether or not:

- (a) the subject property has been properly assessed according to the market value;
- (b) the subject property has been equitably assessed because of shape, servicing levels, and/or other influences.

Complainant's Requested Value: \$199,500

Board's Decision:

- [4] The Board reduced the assessment to \$199,500, based on shape and limited access factors.

Complainant's Position:

[5] The issue here was: should the influence factors of the subject property be modified to eliminate shape and limited access factors and thereby eliminate the -50% adjustment to the base rate of the subject property? The revised assessment for the subject for 2013 was \$219,000.

[6] The 2014 assessment land value was increased to \$343,694 and that was partly because the influence amount had been modified, based on a new influence (Limited Development), to -25%. The Complainant argued that there had been no actual change in any of the physical characteristics of the subject, and therefore the old influences of shape and limited access should still be appropriate and applicable.

[7] The Complainant also argued that the old influences had not changed in the four years preceding the 2014 assessment, and there was no valid reason why the influences should be modified for the 2014 assessment. In those four years, the Land Use for the subject had changed from I-H to I-R, to I-R, I-H.

[8] The Complainant also provided a number of comparables demonstrating a shape influence factor and argued that the shape factor should be consistently applied. They also went on to suggest that there were a number of other influences that could apply to the subject but they did not elaborate.

[9] The Complainant argued that the subject land should be valued as follows: 1.14 acres @\$350,000/acre attracts a value of \$399,000. When that figure is considered in light of influences totalling -50%, the value derived is \$199,500, and that is the Complainant's requested value. The basis of their requested reduction was simply Shape and Limited Access. The Complainant also argued that this hearing was the first time they had heard the term Limited Development. Respondent did not cross-examine the Complainant on their presentation.

[10] In summary, the Complainant argued that because of the shape and size of the subject, the property could not be developed. In addition, they allege there was an easement running right through the middle of the property. In their Last Word, the Complainant argued that the subject parcel is not too large to receive a shape influence adjustment.

Respondent's Position:

[11] The Respondent's response in argument to the Complainant's position was that the subject property was a regular shaped lot, though not strictly rectangular. They also argued and attempted to show with easement maps and photos that the subject was not affected by limited access.

[12] The Respondent argued that all of the Complainant's comparables were a triangular shape as opposed to the subject's almost rectangular shape which the Respondent argued made the comparables not really comparable.

[13] The Respondent also argued that the subject property never was a limited or restricted

access property and they provided ground level photos in an attempt to substantiate that position. The photos showed a lot that was crammed full of trucks and semi-trailers, and access appeared to be limited the way the lot was organized. They carried on arguing that if the subject had an influence at all, it was a Limited Development influence which subsumed all of the other potential concerns the subject may have had.

[14] The Respondent went on to provide a Multiple Land Use Development (LUD) Calculator which they allege supported their assessment. It was not well explained in the hearing. They also provided a 2014 Industrial Land Sales Chart which showed that some sales properties had influences, but they were in the minority. Once again, this was not well explained.

[15] On cross-examination, the Respondent admitted that they had not provided any comparables. They also admitted that in their land sales chart, none of the sales was actually comparable to the subject property. The Respondent also commented that it was not necessary for a property to have a triangular shape to attract a Shape influence.

[16] The definition of a shape influence was agreed on as: a reduced development potential or functionality as a result of the shape of the lot. The Respondent went on to comment that the City had changed the shape influence factor criteria this year, without explaining what the change involved.

[17] The Respondent also argued that they felt they did not need comparables and they were prepared to proceed based on their criticism of the Complainant's comparables. In summary, the Respondent argued that the subject was not affected by Limited Access.

Board's Reasons for Decision:

[18] The Board carefully considered the argument and evidence of both parties. After such consideration, the Board found that there was limited access based on the location, size and shape of the subject and also a shape influence was indicated by all of the evidence placed before the Board in the hearing.

[19] The Board made no finding as to the Limited Development influence, but did order that the Shape and Limited Access influences to be re-instated.

[20] Based on all of the foregoing, the subject assessment is herewith reduced to the Complainant's requested assessment of \$199,500.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF September 2014



R. Glenn
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 Administrative Use Only

Appeal Type	Property Type	Property type	Sub-	Issue	Sub-issue
CARB	Bare Land	Undeveloped Land		Market Value	Influences