



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:

RESMAN HOLDINGS LTD (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

E. K. Williams, PRESIDING OFFICER

A. Maciag, BOARD MEMBER

J. Rankin, 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: 201703972

LOCATION ADDRESS: 1105 7 AV SW

FILE NUMBER: 74292

ASSESSMENT: \$3,320,000

This complaint was heard on 23rd day of June, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, and Boardroom 8.

Appeared on behalf of the Complainant:

- W. Van Bruggen Agent, MNP LLP

Appeared on behalf of the Respondent:

- S. Gill Assessor, The City of Calgary

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

- [1] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[2] The subject property at 1105 7 AV SW is a 10,451 square foot (SF) low rise office building on 0.42 acre (18,492 sq. ft.) of land with a 1957 year of construction (yoc), assigned a quality classification of C, a Property Use: Commercial and SubProperty Use: CS1050 Office/Marginal. The subject is located in the community of Downtown West End in Sub Market Area of NONRES Downtown Zone (DTZ) and is in the DT2W assessment land zone with a Corner Lot Influence adjustment of 5% and a Train Influence Adjustment of -15%.

[3] The assessment was prepared on the Sales Comparison Approach (Valued as Land Only) based on the DT2W assessment Land Rate of \$180.00 per square foot (psf).

Issues:

[4] The assessed value of the subject property is not reflective of the November 2011 sale of the subject property, which is the best indicator of value.

Complainant's Requested Value: \$2,270,000

Board's Decision:

[5] The assessment is reduced to \$2,270,000.

Legislative Authority, Requirements and Considerations:

[6] The Act Section 293 Duties of Assessors requires that:

- (1) In preparing an assessment, the assessor must, in a fair and equitable manner,*
 - (a) apply the valuation and other standards set out in the regulations, and*
 - (b) follow the procedures set out in the regulations.*

[7] Matters Relating to Assessment and Taxation Regulation (MRAT) Part 1 Standards of Assessment Section 2 Mass Appraisal requires that:

An assessment of property based on market value

- (a) must be prepared using mass appraisal,*
- (b) must be an estimate of the value of the fee simple estate in the property, and*
- (c) must reflect typical market conditions for properties similar to that property.*

and Section 4 Valuation standards for a parcel of land requires

4(1) The valuation standard for a parcel of land is

- (a) market value, or*
- (b) if the parcel is used for farming operations, agricultural use value.*

Position of the Parties

[8] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[9] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, aerial photographs of the building and the surrounding area, the City of Calgary 2014 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach, Property Assessment Detail Report. In support of the Complainant's position the package included details on the sale of the subject property, the transaction summaries prepared by RealNet and Commercial Edge, selected pages from the City of Calgary Assessment Information Package related to Submarket Areas DT1-DT9, a section on Relevant Legislation and Alberta Court of Appeal decisions as well as a copy of the Court of Queen's Bench of Alberta decision 2005 ABQB 512.

[10] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, the City of Calgary 2014 Property Assessment Notice, the 2014 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach, the Property Assessment Detail Report, a section titled Comparable Information – Downtown which included map, tables and supporting documentation for the Respondent's land rates, details on a DT2W comparable sale including supporting documentation as well as a number of Assessment Review Board and Municipal Government Board decisions in support of their position.

[11] Both parties placed technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of the document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[12] As noted above, both parties placed before this Board a number of Alberta Court of Queen's Bench, Assessment Review Board and Municipal Government Board decisions in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

Complainant's Position:

[13] The Complainant advised the Board that the subject property was sold on the November 7 2011 and that the sale is the best indicator of value. Documentation from RealNet and Commercial Edge supporting the sale of the subject was presented on pages 19-32 of Exhibit C-1. The Board was advised that the sale date reported in the table on page 16 of Exhibit C1 is incorrect and that the date should be changed from 7-Nov-13 to 7-Nov-11. All analysis was completed on the correct date of 7-Nov-11.

[14] The table on page 16 of Exhibit C1 presented details on this transaction. The Time Adjusted Sale Price (TASP) for the subject property is \$2,271,600 and was based on the monthly Time Adjustment factor developed by the City of Calgary (page 40 Exhibit C1). This Time Adjustment factor was calculated by the City of Calgary based on transactions in the DT3 land zone which was the only downtown land zone with a sufficient number of transactions on which to calculate a Time Adjustment Factor. The City of Calgary's position is that the use of the TASP factor be limited to the DT3 zone.

[15] The Complainant argued that the similarities between the DT3 and the DT2W zone support the use of the TASP factor for the subject property. Both land zones are at the geographic ends of the downtown, the primary developments are residential, and there are a number of parcels of land available for development. Further a review of the 2014 Land Rate table on page 35 of Exhibit C1 determined that the land rates for the 2 zones are similar with DT2W at \$200 psf and DT3 at \$170 psf compared to the land rates established for the land zones located in the core (DT1/MUNI, DT2East, and DT8) which range from \$305 to \$370 psf.

[16] The table titled Land Sale Analysis, on page 37 of Exhibit C1, presented the land sales analysis used in the Respondents subject valuation model. One of the sales used in the valuation model was the DT2W April 2013 sale of the property at 1111 9 AV SW. The Complainant argued that although the sale is in the DT2W land zone, the same as the subject property, it is not comparable to the subject. Specifically:

- 1) The property is located on 9 AV SW a major traffic artery in to the downtown whereas the subject is on 7 Av SW is dedicated to the light rail and bus transit system.
- 2) The parcel size is 136,296 SF compared to the subject's 18,429 SF.
- 3) The property at 1111 9 AV SW is leased to an operating business.

[17] As further support the Complainant reviewed the 2005 Court of Queen's Bench of Alberta decision ABQB 512 which supports the principle that the recent sale of a property is the most realistic and reliable method of determining market value.

[18] In summary the Complainant the argued that the TASP of the subject property is the

best indicator of value which is consistent with 2005 ABQB 512 decision. The TASP for the subject property presented in the table on page 16 of Exhibit C1 supports the request assessed rate of \$123 psf.

Respondent's Position:

[19] The Respondent reviewed the tables presented on pages 29 to 32 of Exhibit R1 which presented the analysis in support of rates applied to the downtown land zones with particular attention to the DT2W comparable on page 31 of Exhibit C1. This April 16, 2013 sale of a 136,296 parcel of land for a TASP of \$202 psf supports the land rate of \$200 psf.

[20] In summary the Respondent argued that the 2005 ABQB 512 decision is not applicable and the TASP for the DT2W transaction supports the assessed rate of \$200 psf.

Board's Reasons for Decision:

[21] The Respondent based the Land Rate for DT2W of \$200 psf on a single sale dated April 16, 2013 for 1111 9 AV SW which reported an adjusted sale price of \$202 psf. The November 7, 2011 sale of the subject property was excluded from the analysis even though it was within the 36 month period (July 01, 2010 to July 01, 2013) for identification of comparable sales. Further in the table titled \$170 Land Rate Support Analysis (page 30 Exhibit R1) for the determination of the Land Rate for DT3/EVG the Respondent included a sale dated June 29, 2011. If the subject property had been included in the Respondent's analysis, based on the subject property TASP of \$123.26 psf as calculated by the Complainant (page 16 Exhibit C1) the average sale price for the 2 sales in DT2W would be \$162.63 psf.

[22] Paragraph [7] above referenced the provisions of MRAT which state that the assessment of a property must reflect the typical market conditions for properties similar to the subject property. The following table compares the subject and the comparable sale at 1111 9 AV SW on three characteristics:

Characteristic	1111 9 AV SW	1105 7 AV SW
Parcel Size	136,296 sq. ft.	18,492 sq. ft.
Location	9 AV is a major traffic roadway into the downtown	7 AV is the transit corridor with no vehicular traffic permitted
Current Use	Auto dealership with a current lease term of greater than 5 years	vacant

The current use comment in reference to the comparable is based on the response to question 33 of the Assessment Request for Information Non Residential Sale Questionnaire dated July 30, 2013 (page 191 of Exhibit R1). Further the Tenant Roster on page 193 of Exhibit R1 reports the lease expiry date of 2020/01/31.

Based on the above table the subject differs from the Respondent's comparable on three characteristics which are measures of similarity.

[23] The Complainant argued that the November 7, 2011 arm's length sale of the subject property for a sale price of \$2,000,000, is the best indicator of value and not the application of the Sale Comparison Approach. As support for the use of the November 2011 sale of the subject property in the determination of the assessment value, the Complainant reviewed with

the Board selected paragraphs (pages 85 and 91 of Exhibit C-1) from the Court of Queen's Bench of Alberta (ABQB) 697604 Alberta Ltd. v. Calgary (City of), 2005 ABQB 512.

[24] Based on the evidence presented the Board supports the use of the arm's length sale of the subject property for a sale price of \$2,000,000, as the best indicator of value.

[25] Therefore the Board, therefore, reduces assessment to \$2,270,000.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF July 2014.



E. K. Williams

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.*

ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Vacant Land	Sale Comparison	Land Value