



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:

***PBA Land Development Ltd.,
(as represented by: MNP ^{LLP.}),
COMPLAINANT***

and

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

before:

<i>W. Krynski,</i>	<i>PRESIDING OFFICER</i>
<i>I. Fraser,</i>	<i>BOARD MEMBER</i>
<i>D. Pollard,</i>	<i>BOARD MEMBER</i>

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:	Various (Refer Schedule A)
LOCATION ADDRESS:	Various (Refer Schedule A)
FILE NUMBER:	Various (Refer Schedule A)
ASSESSMENT:	Various (Refer Schedule A)

This complaint was heard on 2nd day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #5.

Appeared on behalf of the Complainant:

- J. Langelaar – Agent, MNP LLP

Appeared on behalf of the Respondent:

- J. Young – Assessor, City of Calgary

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

[1] Neither party objected to the composition of the Board, as introduced at the outset of the Hearing.

[2] Upon the request and consent of both parties the Board agreed to consolidate Files #73460, #73461 and #73462 into a single Hearing, as both parties' evidence packages for the three accounts were the same.

[3] The Complainant raised a concern pursuant to **MGA S.299** respecting specific evidence included in the Respondent submission. It was argued that the City had included information relative to a *post facto* sale in its' evidence package, which was not previously disclosed to the Complainant, when the original S.299 request for information was made for the subject properties. The Respondent's position was that the referenced data, being a *post facto* sale, was neither utilized nor considered by the Assessor when preparing the subject assessments, and therefore, there was no requirement to provide the Complainant with this information. Furthermore, the Respondent could not say definitively that the City even had the information in their hands at the time the assessments were prepared. Both parties agreed that the referenced information included in the City's submission was exchanged within the legislated time frames.

[4] The Board considered the Complainant's concern and determined that there was no requirement for the City to disclose the particular information pursuant to the S.299 request, as the information was neither used nor considered in the preparation of the subject assessments. The information relative to the Nov. 2013 *post facto* sale was referenced in the Respondent CARB submission, merely from a trending perspective, in support of the direction that the market was moving at that time.

[5] The Complainant requested permission to refer to his laptop in the course of the Hearing, as he was missing his printed copy of their submission, but had a digital copy on his computer. The Respondent objected on the basis that the Complainant may have access to additional information or his office in the course of the Hearing, thereby providing some form of advantage. The Board allowed the Complainant the use of the laptop, on the condition that he restrict the use solely to that which was requested.

Property Description:

[6] The Subject Properties are comprised of three contiguous vacant land parcels located in Calgary's downtown central core, in what is referred to as Economic Zone DT1. The properties form the site of a commercial parking lot, located mid-block on 5th Avenue SW, between 4th and 5th Streets SW. Individual site areas are 3,243 square feet (sf.), 6,486 sf. and 6,487 sf. and all are zoned DC (Direct Control) under Bylaw 66Z87.

Issues:

[7] The single issue arising from this Complaint is that the assessed land rate applied to the subject properties is in excess of market value.

Complainant's Requested Value: Refer Schedule A.

Board's Decision:

[8] For the reasons outlined herein, the Board confirms the assessments of the three properties as noted in Schedule A herein.

Legislative Authority, Requirements and Considerations:

[9] The Calgary Composite Assessment Review Board takes authority from the Act and associated Regulations.

Complainant's Position:

[10] The Complainant's evidence and disclosure document was presented, and labelled Exhibit C1 (128 pgs.) The Complainant is requesting that the subject assessments be predicated on a land value rate of \$300.00 psf, versus the currently assessed land rate of \$370.00 psf. It was argued that the current assessments of the subject properties are in excess of market value, as evidenced by the sales analysis prepared by the Complainant.

[11] The Complainant requested that Page 12 of Exhibit C1 titled "Valuation Method 2" be stricken from the record, along with any further reference to it.

[12] The Complainant presented three property sales in his analysis via the Direct Sales Comparison Approach, as follows [C1; Pg.10]:

ADDRESS	SALE DATE	Sale Price	Influence Adj	Adj. SP	Lot Size (sq. ft.)	Price/sq. ft.
604 8 Ave SW	18-Sep-12	\$2,000,000	- 5%	\$1,900,000	6,504	\$292.13
718 8 AveSW	24-Jan-12	\$2,000,000	10%	\$2,200,000	6,506	\$338.15
617 8 Ave SW	15-Nov-11	\$1,675,000	10%	\$1,842,500	6,172	\$298.53
Average						\$309.60
Median						\$298.53

[13] The three sales presented reflect an average sale price per square foot of \$309.60, and a median value of \$298.53. All sales, it was argued, are located within a few blocks of the subject properties and are within similar size ranges. The 604 8 Ave. SW sale has a -5% adjustment to reflect it's superior corner lot location, while the two remaining sales were adjusted upwards by 10% to reflect their inferior DT2 location versus the Subjects' DT1 location. The three market indicators, it was argued, clearly support a land value of \$300.00 psf.

[14] Although the three sales were improved properties, it was argued that the improvements are marginal, being at the end of their economic lives, and adding little to the overall property value. They are considered within the Industry as being re-development sites, and the City's assessments of these properties are calculated on a "land only" basis, thereby supporting this assumption.

[15] In addition to third party and land title sales documents, various maps, aerials and photographs were provided to offer a visualization of the location and building characteristics of the subject and sale properties.

[16] Additionally, the Complainant submitted Rebuttal evidence (Exhibit C2), which included support for the "redevelopment site" status of the 604 8 Ave. SW sale (Barron Building), a response to the Respondent's sales and calculations and a prior year's Board Decision wherein the subject properties received a reduction.

Respondent's Position:

[17] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (134 pgs.). In addition to third party and land title sales documents, various maps, aerials and photographs were provided, to offer a visualization of the location and building characteristics of the subject and sale properties.

[18] The Respondent takes the position that the subject properties, being currently utilized as a surface parking lot, represent a highly desirable development site, in the centre of the City's Downtown Core.

[19] A market value rate of \$370.00 psf. was applied to the subject properties, based on the following sales analysis [R1; Pg.63]:

\$370 Land rate Support Analysis

Roll #	ADDRESS	Prop Type	LUD	Parcel Size	Influ.	Area Influ.	Adj. Factor	Sale Date	Sale Price	Sp psf	Adj. Sp psf	2014 Asmt	ASR
068227206	515 MacLeod Tr. SE	LI	DC/CM-2	118,299	CL	118,299	-5%	06/21/12	\$36,500,000	\$309	\$294	45,959,162	1.26
068239607, 706, 805, 904	216 240 2 Ave SW; 215, 227 Riverfront Ave SW	LO	DC/88D2008	107728	CL	55,883	-5%	11/14/12	\$49,500,000	\$459	\$438	40,893,196	0.83

Mean: \$366 Median: 1.04
 Median: \$366
 Assessed: \$370

[20] In reference to the above sales analysis, the Respondent emphasized the fact that unlike the Complainant's sales, both properties are located in the same prime downtown economic zone (DT1) as the subject properties. With location being a prime driver of value, it was argued that the Complainant's sales, being located in peripheral economic zone DT2, are not representative of the subject properties' prime location. Thus the Complainant's 10% location adjustment was insufficient.

[21] In further support of the assessed land values, the Respondent referenced the following *post facto* vacant land sale located immediately adjacent to the subject properties [R1; Pg. 64]:

Imperial Oil Vacant Land Sale Breakdown

NRZ	Roll #	Address	Parcel Size	LUG	Group	Influence	Sale Date	Sale Price
DT1	067052001	507 4 ST. SW	8,790	CM-2	2	CRN	20-Nov-13	12,219,200
DT1	201505757	525 4 ST. SW	4,629	CM-2	3	SPF, RP	20-Nov-13	6,109,600
DT1	067051904	505 5 Av. SW	5,195	CM-2	1		20-Nov-13	
DT1	067052100	500 6 Av. SW	38,264	CM-2	1		20-Nov-13	
DT1	067051607	517 5 Av. SW	6,487	CM-2	1		20-Nov-13	68,951,200
			63,365					87,280,000
							Rate/sf	1,377

[22] Although being four months *post facto*, it is the Respondent's contention that the sale of the immediately adjacent properties shows the direction in which market values in this location are heading, and a reduction in the assessed land rates to \$300 psf. is clearly not supported.

[23] Additionally, the Respondent contends that the Complainant's sales analysis is inferior, in that their three sales are more dated than the City's, stretching back to 2011, and none of the sales are in the prime DT1 location as the subject properties. Furthermore, the Respondent reasons that the Complainant has failed to include a number of similar (marginally improved) sales that would dramatically affect the outcome of their analysis. By selectively including only those sales with lower per square foot prices, the Complainant has failed to consider all the evidence. In support of their contention, the Respondent has submitted the following chart [R1; Pg. 30]:

Roll #	ADDRESS	Parcel sf	NRZ	LUG	Sale Date	Sale Price	Influ.	Influ. %	Influ. Adj. \$	\$ psf
067073908	604 8 Av. SW	6,504	DT2E	CM-2	18-SEPT-12	2,000,000	TZI, CRN, DT2	- 15%	1,904,762	\$293
067072702	718 8 AV. SW	6,506	DT2E	CM-2	01-JAN-12	2,000,000	DT2	10%	2,200,000	\$338
067077909	617 8 AV. SW	6,172	DT2E	CM-2	15-NOV-11	1,675,000	DT2	10%	1,842,500	\$299
067025205	400 6 ST. SW	3,252	DT2E	CM-2	08-Feb-13	1,950,000	CRN, DT2	5%	2,047,500	\$630
067025502	631 4 Av. SW	4,878	DT2E	CM-2	15-Mar-13	1,925,000	DT2	10%	2,117,500	\$434
068227606	515 macleod Tr. SE	118,299	DT1	CM-2	21-Jun-12	36,500,000	CRN	- 5%	34,761,905	\$294
068239607	215-240 Rvrfrnt Av. SW	107,728	DT1	CM-2	14-Nov-12	49,500,000	CRN	- 5%	47,184,864	\$438

Mean: \$389

Median: \$338

Assessed: \$370

[24] The Respondent reasons that, had the Complainant included all of the available sales that are considered to be marginally improved, and therefore representative of vacant land value, the resulting Mean and Median values of \$389 and \$338 psf. support the current \$370 assessed value.

Board's Reasons for Decision:

[25] The Board is in agreement with the Respondent that location is a major factor driving value for properties such as the subject lands. The limited availability of prime development sites in the City's Downtown core, specifically Economic Zone DT1, has a very positive effect on land values in this region. The Complainant's three sales are located outside of the DT1 zone,

and thereby, not truly representative of the subject location.

[26] On the other hand, the Board has some reservations respecting the Respondent sales, in that, only two sales were ultimately utilized, and both sale properties, being in excess of 100,000 square feet in size, are considerably larger than the subject lands. However, if one is to accept the concept of "diminishing returns" as being applicable in this instance, then the indicated sale prices per square foot would, if anything, reflect per square foot prices at the lower end of the range of value.


[27] The Board has concerns with the Complainant's reasoning as to why they chose three marginally improved sales, but chose to exclude the two other similarly marginally improved sales, (400 6 St. SW and 631 4 Av. SW), that also happened to be the most current, and at the upper end of the value range.

[28] The Board took into consideration the Respondent's secondary analysis [para.23], which included the Respondent sales, as well as the Complainant's sales, and the two additional marginally improved sales that the Complainant omitted, and finds that the result is supportive of the \$370 psf. assessed land rate.

[29] On review and consideration of all the evidence before it on this issue, the Board finds the Complainant's evidence is not sufficient to warrant a variance in the assessed land rate.

[30] The Board confirms the subject assessments per Schedule "A".

DATED AT THE CITY OF CALGARY THIS 7th DAY OF August 2014.



Walter Kryszinski
Presiding Officer

SCHEDULE A

<u>File #</u>	<u>Owner</u>	<u>Roll #</u>	<u>Address</u>	<u>Assessment</u>	<u>Requested Assessment</u>
74360	PBA Land Dev. Ltd.	067051300	527 5 Ave. SW	1,190,000	970,000
74361	PBA Land Dev. Ltd.	067051409	525 5 Ave. SW	2,390,000	1,940,000
74362	PBA Land Dev. Ltd.	067051508	523 5 Ave. SW	2,390,000	1,940,000

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

NO.	ITEM
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.*

FOR ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Commercial	Vacant Land	Land Rate	