



## **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 Colliers International Valuation & Advisory Services), COMPLAINANT***

and

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

before:

<b><i>K. Thompson,</i></b>	<b><i>PRESIDING OFFICER</i></b>
<b><i>P McKenna,</i></b>	<b><i>BOARD MEMBER</i></b>
<b><i>P Loh,</i></b>	<b><i>BOARD MEMBER</i></b>

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:**                      **see Appendix A**

**LOCATION ADDRESS:**              **see Appendix A**

**FILE NUMBER:**                    **see Appendix A**

**ASSESSMENT:**                    **see Appendix A**

This complaint was heard on 10 day of July, 2014 at the office of the Assessment Review Board located at Floor Number 3 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- W. Van Bruggen      *Agent, MNP LLP*

Appeared on behalf of the Respondent:

- C. Chichak      *Assessor, City of Calgary*
- C. Fox      *Assessor, City of Calgary*

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

[1] No procedural or jurisdictional issues were brought forward. The Complainant requested that the adjacent six parcels be heard with this file (files 74371, 74372, 74373, 74374, and 74375) and that one decision be written for all. The Board had no objections to this request. The Board continued with the merits of the complaint.

**Property Description:**

[2] See Appendix A

[3] The properties are assessed using the sales comparison method of valuation and the assessment is based on a land only value. The assessed land rate for BL2/8 is \$165.00 per square foot (psf).

**Issues:**

[4] The properties would better reflect market value if the land base rate were \$142.00 psf.

[5] Box four on the complaint form was withdrawn at the hearing.

**Complainant's Requested Value: See Appendix A**

**Board's Decision:**

[6] See Appendix A.

**Legislative Authority, Requirements and Considerations:**

[7] By the 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 (1)(a).

### **Position of the Parties**

#### **Complainant's Position:**

[8] The Complainant presented its analysis of land only value for the subject properties, which included two BL2 land sales in the Beltline along with a map of the sale locations and sale documents [C1, pg 25-30] :

Address	LUD	Size	Sale Date	Sale Price	Influences	Influence-adjusted price	Adjusted price per square foot
218 10 Av SW	CC-X	46,370	08/02/2011	\$7,850,000	CL, track	\$8,635,000	\$186.22
120 13 Av SW	CC-X	52,411	11/01/2011	\$5,400,000	CL	\$5,130,000	\$97.88
					Average		\$142.05

[9] The Complainant then added the buildable area for the sale properties based on the Floor Area Ratio allowed under their Land Use Designation [C1, pg 59]:

Address	LUD	Parcel size	FAR	Buildable area	Influences	Influence adjusted price	Adjusted price per Buildable square foot
218 10 Av SW	CC-X	46,370	8	370,960	CL, track	\$8,635,000	\$23.28
120 13 Av SW	CC-X	52,411	9	471,699	CL	\$5,130,000	\$10.88
						Average	\$17.08

[10] The Complainant contends that these two sales are the only reliable sales with which to develop an appropriate land rate for the subject properties market value and that both these sale properties have a much higher Floor Area Ratio (FAR) than the subjects. This makes these two sales more valuable than the subject properties. Two other sales, used by the City, were discarded by the Complainant for the following reasons:

- 1) 214 11 Av SE, the sale included more than the land value, namely development plans that were in place for an eleven storey office building. The Complainant stated that the purchaser bought the property with 50% of the leases and building permits in place along with a design team; therefore this is not a land only sale [C1, pg 85-108]. This sale breaks down to \$172.58 psf on CC-X zoned land
- 2) 103 17 Av SE, this property had a development permit days after the close of the sale, which the Complainant contends showed the ground work was laid out prior to the purchase of the property. The Complainant went further to state that this property was residential and the subject properties are commercial. Documents, corporate searches and 2013 CARB decision were

included [C1, pg 109 – 144].

[11] The Complainant argued there is an added value to properties with a higher FAR. There is also an added value to properties in the bonus area of the downtown core (an area that permits better development potential). If the sale properties have either or both of these attributes it would make them far more valuable than the subject properties.

[12] An equity comparable was produced (218 10 Av SW) being a 08/02/2011 sale of \$7,650,000 indicating a rate of \$169.32 psf. Further equity comparables presented were at 120, 126, 140 and 114 13 Av SE [C1, pg 62-84].

[13] The Complainant included the City's analysis [C1, pg 149-151], and relevant sections of the Land Use Bylaw, sections of the Act, definitions and some portions of Queens Bench decisions.

### **Respondent's Position:**

[14] The Respondent provided details and calculations on the assessment of the subject properties.

[15] The Respondent argued that the Complainant left out two valid sales in the Complainant's analysis for vacant land rates in this market area. The Respondent included information to show the Complainant has in several previous cases used sales with applications for development in the Complainant's analysis [R1, pg 36-49]. The Respondent also stated that the Complainant had missed an adjustment for a transitional zone influence for the sale at 218 10 Av SW.

[16] Regarding the sales that were excluded by the Complainant, the Respondent stated:

- 1) 214 11 Av SW, is in BL2 at an influence adjusted rate of \$173 psf. The Respondent contends that this is a valid sale to use in the land analysis. There is no indication that development plans had an effect on the purchase price of this property; the affidavit value was not adjusted by any amount. The Respondent provided a Land Titles document to show the value sworn as \$4,500,000. The Respondent also provided revised permits and drawings to show the original development specs (at the time of sale) were altered prior to development. The Respondent contends the value of the development permit was negligible [R1, pg 262-263].
- 2) 103 17 Av SW is also a valid land sale for this analysis. The property was improved; however the property's land value best represents its market value (when the value of the land exceeds the capitalized income value). This was accompanied by a number of excerpts from Board Decision [R1, pg 51-55]. The Respondent included the new development permits, prospectus plans for multi residential development demolition permits, pictures of the old building and land use guidelines that show that this sale property was under the same land use guidelines as the subject properties [R1, pg 264-277]. In response to the Complainants contention that the vendor had done some pre-work on the development permits prior to the sale, the Respondent stated that nothing of that nature was stated on the RealNet sheet. The sale at 103 17 Av SE, in BL8 at an influence adjusted rate of \$158 psf, is the only sale in the market area for five of the subject properties. The affidavit value on this property is signed at \$4,200,000. There is no indication on the transfer that this sale

included any other value than that of the land.

[17] The Respondent provided the City's 2014 Beltline Land Rate Study [R1, pg 57-62]. All supporting documentation was also included [R1, pg 79-140]. The Respondent included a map to show where the sales were located in the Beltline in relation to the subject properties [R1, pg 62]. Centre City Districts Land Use Bylaws, bonus rules, FAR explanations, Municipal Development plans, Beltline area redevelopment plan, re-designation rules and application forms were also included [R1, 142-241].

[18] The Respondent pointed out that the Complainant was mixing the C-COR and CC-COR land uses mixed up. C-COR land (such as the sale at 103 17 Av SW) is not eligible for any bonuses, [R1, pg 198]. Bonuses are only given to CC-COR zoned properties on the south side of 17 Av SW; there are no bonuses allowed for the sale property.

[19] With regard to the Complainant's contention that higher FARs equate to higher value the Respondent produced a chart to show that there is no relationship to FAR and sale price [R1, pg 61].

[20] Board decisions were also included for the Board's consideration; in particular the Respondent handed out MGB 101/09, CARB 71868P-2013 and 71858P-2013.

[21] The Respondent also included several *post facto* sales to support the assessed value rate [R1, pg 64].

#### **Complainant's Rebuttal:**

[22] The Complainant included a number of Board decisions for the Boards consideration.

#### **Board's Reasons for Decision:**

[23] The Board reviewed the evidence provided by both parties and will limit its comments to the relevant facts pertaining to this case.

[24] The Board notes that it is not bound by previous Board Orders; however, the Board did consider those that were submitted (for general principles); this decision is based on the evidence before this Board.

[25] The subject properties are in a well established economic zone in the beltline market area and this subject's placement in this zone was not challenged by the Complainant. The subject properties land rate however, was challenged.

[26] Both the Complainant and the Respondent used the sales comparison approach to value these properties; however, only two of the same sales were used by both parties. One of those sales was analysed using different methodologies to arrive at different results. The Board reviewed the two sales the Complainant did not include in its analysis and found the sales to be a reasonable representation of land value in the Beltline. No evidence was provided to prove to the Board that the sale price of those two properties reflected other than the value of the land. The sworn affidavit values were for the value of the property only. *T. Eaton Company Ltd. V Alberta (Assessment Appeal Board)*, 1995 ABCA 361 paragraph 29 states:

*Subjective elements of a value associated with the concept of special value to a particular person and speculative factors such as possible changes in permitted use are to be excluded in arriving at the value of land for assessment purposes: RE Bramalea Ltd and Assessor for Area 9 (Vancouver); T. Eaton Co., Intervenor (1990),*

76 D.L.R. (4<sup>th</sup>) 53 (B.C.C.A.).


[27] This exclusion of subjective elements would also speak to the potential value of the different FARs as argued by the Complainant.

[28] The Board was presented with considerable details with regards to land use guidelines, bonus areas and the potential impact on value. The Board found that the Complainant had relied upon the incorrect Land Use guidelines in a number of instances and failed to provide any evidence to substantiate a value adjustment.

[29] The equity comparables presented by the Complainant were all in sub market area BL2 and had the same land rates applied to them as the subject properties.

[30] The results from the Respondent's analysis satisfied the Board that market value and equity were attained. The Board finds insufficient evidence to alter the land rate applied to these properties. The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 11<sup>th</sup> DAY OF August 2014.

  
\_\_\_\_\_  
K. Thompson

Presiding Officer

**APPENDIX "A"**

Roll Number	Location Address	File #	Property description, land only	District/Land Use	Assessment	Complainant's Requested Assessment	Board's Decision
068204304	209 15 Av SW	74365	3,002 sf	BL2/C-COR1 fh46	\$495,000	\$420,000	\$495,000
068204502	202 17 Av SW	74371	18,036 sf	BL8/C-COR1 f3h46	\$3,120,000	\$2,680,000	\$3,120,000
068204601	212 17 Av SW	74372	4,667 sf	BL8/C-COR1 f3h46	\$770,000	\$660,000	\$770,000
068204700	216 17 Av SW	74373	4,735 sf	BL8/C-COR1 f3h46	\$781,000	\$670,000	\$781,000
068204809	220 17 Av SW	74374	6,410 sf	BL8/C-COR1 f3h46	\$1,050,000	\$910,000	\$1,050,000
068204908	226 17 Av SW	74375	4,880 sf	BL8/C-COR1 f3h46	\$885,500	\$760,000	\$885,500

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

*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
other	land	Rate psf	