



## 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:

***BCIMC Realty Corporation  
(as represented by Altus Group Ltd.), COMPLAINANT***

and

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

before:

***J. Dawson, PRESIDING OFFICER  
R. Roy, BOARD MEMBER  
T. Livermore, BOARD MEMBER***

This is a complaint to the Composite Assessment Review Board [CARB or the 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:

<b>ROLL NUMBER:</b>	<b>068240407</b>
<b>LOCATION ADDRESS:</b>	<b>217 1 ST SW</b>
<b>FILE NUMBER:</b>	<b>74470</b>
<b>ASSESSMENT:</b>	<b>\$6,810,000</b>

This complaint was heard on 2nd day of July, 2014 at the office of the Calgary Assessment Review Board [ARB] located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *D. Chabot*                      *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *H. Neumann*                      *Assessor, City of Calgary*

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

[1] The Board adjourned the hearing on July 2nd and officially closed the hearing July 4th as the Board was satisfied that all the information required to make a decision was before the Board.

[2] There are no additional preliminary, procedural, or jurisdictional issues.

**Property Description:**

[3] The subject is a 19,376 square foot vacant land parcel on the corner of 3rd Avenue and 1st Street SW. The subject has been assessed using the Direct Sales Comparison Approach compared with sales in the downtown core. The subject is located in the community of Chinatown.

**Issues:**

[4] The primary issue before the Board is location. The Complainant asserts that the subject is in Chinatown and should receive a vacant land value consistent with other Chinatown properties while the Respondent contends that the property is best compared with vacant land in the downtown core. This has been an ongoing issue for the subject with previous decisions aligning on both sides. The rates between the two Non-Residential Zones (NRZ) differ by eighty-five percent (85%). In fact, one issue is the use of NRZ as a delineator for value, with the Respondent now referring (in this hearing) to the zones by their value conclusion.

**Complainant's Requested Value: \$ 3,875,200**

**Board's Decision:**

[5] The Board finds the correct assessment value for the subject is \$ 4,450,000.

**Legislative Authority, Requirements, and Considerations:****The Municipal Government Act**

Revised Statutes of Alberta 2000 Chapter M-26

**Interpretation****1(1)** *In this Act,*(n) *"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;***Position of the Parties****Complainant's Position:**

[6] The Complainant provided the '2014 Property Assessment Notice' to show the increase in assessment from 2013 by ninety-five percent (95%) from \$3,480,000 to the current assessment of \$6,810,000 (C1a p. 7).

[7] The Complainant disclosed the 'Property Assessment Detail Report' from the Respondent to show the subject is located in the community of Chinatown, that it has been assessed as Land Only, that the Land Use Designation [LUD] is Direct Control [DC], and that there are two influences used to adjust the end value conclusion (C1a p. 8).

[8] The Complainant presented maps and photographs from the Respondent's website and other sources to show the location of the subject directly south of the Chinese Cultural Centre within the Chinatown community, with the DC 49Z84 LUD and general 1P2007 LUD, and the temporary use of parking lot at grade is approved with development permit DP2010-0923 (C1a pp. 11-20).

[9] The Complainant explained the DC 49Z84 LUD with the subject identified as 'Site 2' and the specific uses, which prohibit office use, and the relatively low maximum density of 7.5 Floor Area Ratio [FAR] when all available bonuses are applied. In reviewing the evidence, the DC LUD specifies the use of Chinese characters, symbols, designs and colours in structures as a requirement of any development (C1a pp. 21-28).

[10] The Complainant provided a sketch completed by the property owner to show a possible development of the subject as retail commercial on grade and residential on levels above grade (C1a pp. 29-30). CARB 1752/2012-P, being the CARB decision on the subject for 2012, at paragraph 6 refers to another plan by the property owner to include the subject as part of an adjacent office tower development; however, the development authority rejected that application with the office tower development now complete.

[11] The Complainant reviewed the historical assessment of the subject. The Board summarized the evidence in the chart below with the information available (C1b pp. 125-153).

Year*	Assessment					Influences			
	Original	Amended	Requested	Final	How final assessment was determined	Transition Zone	DC Restriction	Corner Lot	NRZ
2008 O & A	\$9,680,000	\$7,750,000	\$5,810,000	\$5,810,000	Board Decision	?	?	?	DT1
2009 O	\$5,810,000		\$4,840,000	\$4,840,000	Agreement	?	?	?	DT1

Year*	Assessment					Influences			
	Original	Amended	Requested	Final	How final assessment was determined	Transition Zone	DC Restriction	Corner Lot	NRZ
2010 O	\$3,920,000			\$3,920,000	Assessed	0%	-15%	5%	DT9
2011 O	\$3,290,000					0%	-20%	5%	DT9
2011 A		\$6,900,000	\$4,060,000			-10%	0%	5%	DT1
2011 D		\$6,900,000	\$4,060,000	\$5,440,000	Board Decision	-10%	-20%	5%	DT1
2012 O	\$5,980,000		\$3,670,000	\$5,980,000	Board Decision	-15%			DT1
2013 O	\$6,530,000		\$3,480,000			-10%		5%	DT1
2013 D	\$6,530,000		\$3,480,000	\$3,480,000	Board Decision				DT9
2014 O	\$6,810,000		\$3,875,200	-	-	-10%		5%	DT1

\* O represents Original Assessment Notice; A represents an Amended Assessment Notice; and D represents a Board Decision.

[12] The Complainant compiled a list labelled 'The Only Valid Land Sales in Downtown Core Between 2012 and 2013'. The list included sales from DT1, DT2E, DT2W and DT9 and arrived at a median of \$246.58 with an average (mean) of \$249.89. The list included LUD and FAR information and compared the information to the subject property, which is being assessed some forty-three percent (43%) higher than the median (C1a p. 34).

[13] The Complainant provided a copy of the Respondent's 'Land Sales Analysis', 'Property Assessment Summary Report', and maps to show the sale above in Chinatown (DT9) is considered valid at an adjusted rate of \$199 per square foot and is in close proximity to the subject and within the same community of Chinatown (C1a pp. 35-38).

[14] The Complainant reviewed details of the Chinatown sale at 201 1 ST SE to show the similarity with the subject for location, corner use, and LUD. Specifics on the DC 70Z84 LUD are included showing office as a possible development opportunity, which is not available for the subject. The map of DC 70Z84 shows a large portion of the Chinatown community with the same land use designation (C1a pp. 39-52).

[15] The Complainant included information on the other sales on the list above at page 34 of C1a to show how they are superior in LUD to the subject (C1a pp. 53-99).

[16] The Complainant provided 'Land Rate Map' for 2014 and 2013, and a 'Land Rates Summary' for 2014 to show how rates and boundaries change each year, and how the planning department defines Chinatown versus the assessment department (C1a p. 100 and C1b pp. 101-104).

[17] The Complainant disclosed planning documents from the City of Calgary showing the current approved plans for the subject property within Chinatown and how they continue to uphold LUD guidelines established in the 1980's (C1b pp. 105-123).

[18] The Complainant included information from 'The Appraisal of Real Estate – Second Canadian Edition' highlighting section 13.7 at the fourth full paragraph where zoning is referred to as the most basic criterion in selecting comparable properties (C1b pp. 154-156).

[19] The Complainant provided equity comparables within a half block of the subject all assessed as land only ranging in assessed values between \$198.36 and \$229.89 per square foot (C1a pp. 157-162).

[20] The Complainant reviewed an influence adjustment chart with descriptions showing that a transition zone influence is ten percent (10%) either positive or negative depending on which

side of the boundary the property is located. In addition a corner lot has a five percent (5%) positive influence adjustment, and properties with land use restrictions receiving a negative twenty percent (-20%) adjustment (C1b pp. 163-166).

[21] The Complainant concluded that an assessment of \$200 per square foot or \$3,875,200 better reflects the market value of the subject property (C1b p. 168).

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

[22] The Respondent began their presentation with a statement indicating that the subject is a parking lot in the community of Chinatown and that community and planning boundaries do not dictate assessment value boundaries (R1 p. 3).

[23] The Respondent presented the '2014 Property Assessment Notice', '2014 Assessment Explanation Summary', maps, and photographs to establish the details of the subject property (R1 pp. 5-15).

[24] The Respondent disclosed '2014 Downtown/Beltline Land Influence Chart' with values and descriptions highlighting the two that have been applied; Transitional Zone Decrease and Corner Lot (R1 p. 17).

[25] The Respondent provided a write-up explaining why previous Board decisions are not binding on future Board decisions (R1 pp. 18-19).

[26] The Respondent explained the '2014 Vacant Land Rates' map indicating that typical community boundaries have been removed with value conclusions now being the titles of each zone. There is one zone labelled with \$170, two zones labelled with \$200, one zone labelled with \$305, and one zone labelled with \$370. The subject is in the zone labelled \$370 bordering on one of the zones labelled \$200 (R1 p. 21).

[27] The Respondent reviewed sales in the five zones with particular note of sales for the \$370 zone where the subject is placed. Two sales appear in that zone with one sale at 515 Macleod Trail arriving at a value conclusion of \$294 per square foot and another sale of four parcels at, and adjacent to, 227 Riverfront Avenue arriving at a value conclusion of \$438 per square foot. A median and mean of \$366 per square foot is calculated in support of the assessed value of \$370 per square foot (R1 pp. 22-25).

[28] The Respondent provided an Assessment to Sales Ratio (ASR) study to show all the downtown sales combined arrive at a median ASR of 1.0 (R1 p. 27).

[29] The Respondent included a report of *post facto* sales with four sales ranging in value between \$200 and \$1,377 per square foot. This is said to indicate, from a trending basis, that values are increasing; therefore, the Board should not decrease the subject assessment (R1 p.28).

[30] The Respondent disclosed supporting documents for all the sales and LUD relied upon for the 2014 vacant land rates. Attention was drawn to the four parcels located on Riverfront Avenue at pages 176-194 and its LUD starting at page 245 (R1 pp. 26-343).

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

[31] The Board took extra time to review all the evidence. The presentations of each party painted a vastly different value and the Board carefully sifted through the evidence to find the correct decision. Of particular concern to the Board was the fact that the subject has

experienced ongoing issues with value conclusions and Board decisions with a wide variety of values. The Board found its decision by taking into consideration all evidence provided and understanding the decisions of past Boards.

[32] The Board agrees with the finding in the CARB 74741P-2013 decision. The sale of four properties (five addresses) located at; 216 2nd Avenue SW, 240 2nd Avenue SW, 215 Riverfront Avenue SW, 227 Riverfront Avenue SW and 114 2nd Street SW do not meet the definition of a market value sale as defined within the Act section 1(1)(n). In order to be considered a market value sale a property must be sold on the open market by a willing seller to a willing buyer (C2 pp. 3-12).

[33] The evidence shows that the buyer of the properties above was requested by the Respondent to answer a sales 'Assessment Request for Information' [ARFI], which was answered on September 6, 2013 by the general manager. The buyer indicated that the properties were not listed on the open market and that they were motivated to make the purchase, handwriting the following statement; *"Motivation to purchase the property was its proximity to 3 other owned properties in the immediate area (Livingston Place, Jamieson Place, BP Centre). The property was not listed for sale. The owner was contacted directly to sell."* (sic) (R1 pp. 181-184).

[34] The Board found additional information within the evidence indicating that the planned future use of the properties above are for an office building with the DC 88D2008 LUD permitting office building(s) up to 980,000 square feet (R1 pp.177-180).

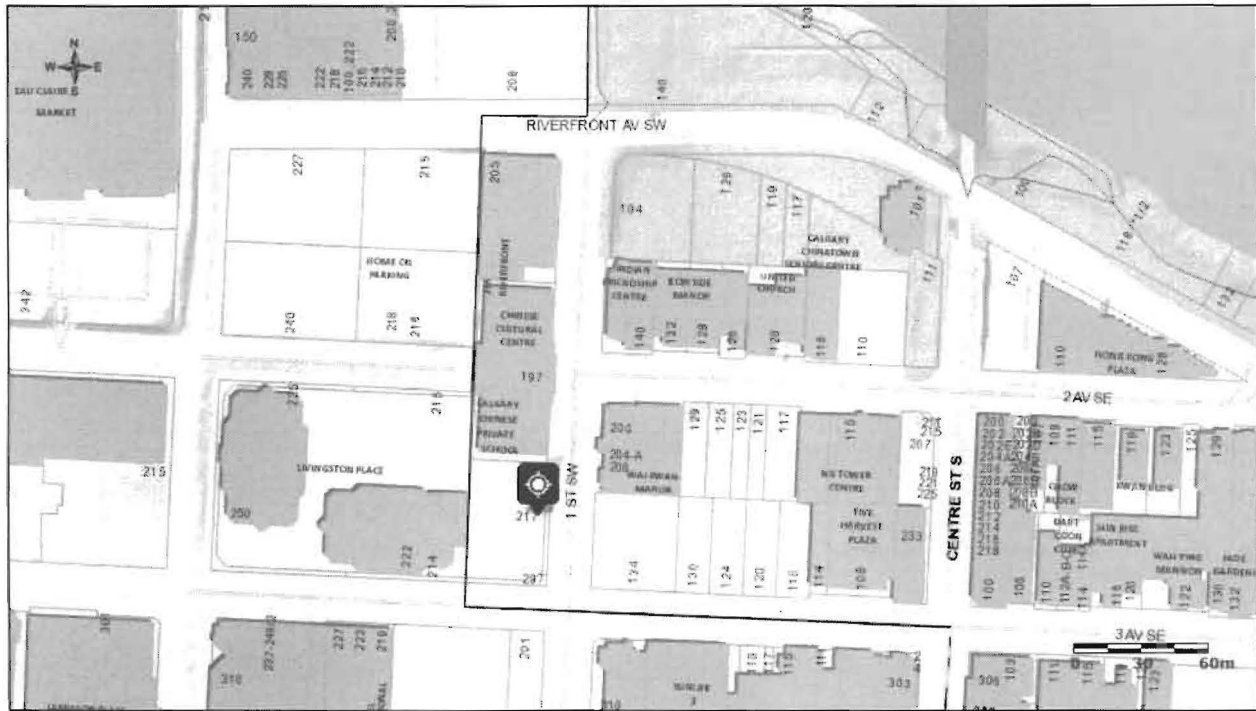
[35] The Board found the sale at 515 Macleod Trail to hold the characteristics of a market value sale. The owner advertised a request for proposals to sell directly to any interested party. Being unsuccessful, the owner then advertised a request for proposals from any realtor willing to market the property. The property was listed for eighteen (18) months and after receiving a number of offers the property was sold. There is no question that this sale holds the characteristics of a market value sale; however, there are some non-typical terms that may have impacted the final sale price. Namely the requirement to maintain a park area and the current statues on site. The Respondent did find this sale to be a market value sale at a value conclusion of \$294 per square foot, which the Board has accepted (R1 pp. 162-175).

[36] The Board found the vacant land rate zone labelled \$370, with one sale remaining valid, calculates a mean and median of \$294 per square foot, which would support a value conclusion of \$300 per square foot – not \$370 per square foot.

[37] The Board calculated the subject property using \$300 per square foot. The result was reduced by twenty percent (20%) for the restrictive LUD in place, reduced by a further ten percent (10%) for transitional zone decrease, and increased by five percent (5%) for corner lot arriving at a value conclusion of \$225 per square foot. However, while this calculation was instructive, the Board does not find that the subject is comparable with properties in the downtown core.

[38] The Board compared the DC LUD of the subject property to the DC LUD predominantly used in the Chinatown community finding many similarities. The subject has a reduced market potential because of the inability to develop as an office building, which is permitted in most of Chinatown; however, no market evidence is available to quantify the difference. There is no comparison that can be drawn between the CM-1 and CM-2 land use districts that are predominant in the downtown core. Because the subject does not compare with the downtown core, and it does compare with Chinatown, the Board recommends that the subject property be stratified with other Chinatown properties.

[39] The Board provides a recommended map which places the subject, and the adjacent Chinese Cultural Centre within Chinatown for stratification purposes. Livingston Place is clearly not within Chinatown, nor are the properties north of Livingston Place, which are destined to be a major office complex. The boundary between the two market zones appears to be clear and is illustrated in the map below.

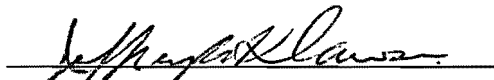


[40] The Board found the sale at 201 1st ST SE to hold the characteristics of a market value sale. The owner listed the property on two occasions and it was sold in an arms-length transaction. There is no question that this sale holds the characteristics of a market value sale. The Respondent did find this sale to be a market value sale at a value conclusion of \$200 per square foot, which the Board has accepted (R1 pp. 230-244).

[41] The Board found the base value of the subject property to be \$200 per square foot, the same value found by the Respondent in the remainder of Chinatown. The Board then added ten percent (10%) for transitional zone increase, and five percent (5%) for corner lot influence arriving at a final value conclusion of \$230 per square foot. The findings of the Board are consistent with the conclusion found in paragraph 37; however, the \$230 per square foot value better reflects the circumstances surrounding the subject property.

[42] The Board found the equity comparables provided by the Complainant supported the value conclusion of the Board (C1b pp. 157-162).

DATED AT THE CITY OF CALGARY THIS 24 DAY OF July 2014.

A handwritten signature in dark ink, appearing to read "Jeffrey Dawson", is written over a horizontal line.

Jeffrey Dawson  
Presiding Officer



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

<b>NO.</b>	<b>ITEM</b>
1. C1a – 100 pages	Complainant Disclosure
2. C1b – 70 pages	Complainant Disclosure
3. R1 – 350 pages	Respondent Disclosure
4. C2 – 32 pages	Complainant Rebuttal 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.*

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Other Property Types	Vacant Land	Sales Approach	Land Value