



## **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:

***SUPERIOR HOLDINGS LTD., IAN VINER, (as represented by Altus Group Limited),***

***COMPLAINANT***

and

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

before:

***PRESIDING OFFICER, T. Hudson  
BOARD MEMBER, D. Julien  
BOARD MEMBER, P. Pask***

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: 068241207**

**LOCATION ADDRESS: 112 17 AV SE**

**FILE NUMBER: 74487**

**ASSESSMENT: \$7,260,000**

This complaint was heard commencing on the 11<sup>th</sup> day, and concluding on the 12th day of August 2014, at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Board room 3.

Appeared on behalf of the Complainant:

- *Ms. D. Chabot, Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

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

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

[1] There were no procedural or jurisdictional matters raised by the Parties.

[2] The Parties requested, and the Board agreed, to carry forward the information and argument submitted in respect of complaint file #74674 in considering a decision on this complaint file # 74487.

**Property Description:**

[3] The subject property is a 0.96 acre parcel of commercial land located in the BL2 submarket of the Beltline community at 112 17 AV SE. The property was improved in 1964, with a "C" quality class retail automotive service building providing 26,907 square feet (sf.) of assessable area.

[4] The property is currently assessed based on land value only.

[5] Details of the assessment include 41,958 sf. of land area assessed at a unit rate of \$165.00 per square foot (psf.), with a +5% corner lot influence adjustment.

[6] The total assessed value is \$7,269,223, or \$7,260,000 (rounded).

**Issue: Should the subject property be assessed based on capitalized income?**

[7] The Complainant contends that the capitalized income approach provides the best estimate of market value for the subject property, and that the current land value only assessment exceeds market value.

**Sub-Issue: Should the subject property assessment be discounted for flood damage?**

[8] The Complainant is requesting a one-time cost to cure discount in the assessment for remediation of flood damage in the amount of \$2,230,000.

**Complainant Requested Value: \$3,490,000 (i.e. \$5,270,000, less the cost to cure of \$2,230,000)**

**Board's Decision:**

[9] **The assessment is confirmed at \$7,260,000.**

**Legislative Authority, Requirements and Considerations:**

[10] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of 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)*

[11] For purposes of the hearing, the CARB will consider the Act Section 293(1):

*In preparing the 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.*

[12] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in the Act section 293(1) (b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:

*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.*

**Position of the Parties**

**Issue: Should the subject property assessment be based on capitalized income?**

**Complainant**

[13] The current value of the land as vacant assumes that the highest and best use of the property is as a redevelopment site, which the Complainant submits is incorrect.

[14] The Complainant argued that in the absence of a highest and best use analysis, "the actual use of a property on December 31 of the assessment year is the use that is typically assessed." (Exhibit C1 (b), quote from Principles of Assessment Government of Alberta).

[15] The Complainant noted that there are no current redevelopment plans for the subject property, and based on the third party forecasts of increasing vacancy rates, no demand for redevelopment for the foreseeable future, (Exhibit C1 (b), pages 57-70).

[16] In rebuttal, the Complainant questioned the comparability of the subject property to the land sales used to establish the land value unit rate of \$165 psf., applied in calculating the current assessment.

[17] The Complainant indicated that their income approach to value calculation for the subject assessment produces a unit rate of \$125 psf. However, their request does not seek a change in the land rate, but rather an assessment based on capitalized income discounted on a one-time basis for the cost-to-cure flood damage.

[18] The Complainant also submitted several previous CARB decisions, which generally support the position that the capitalized income assessment of an improved property, should not be replaced by a land value only assessment in the absence of a thorough highest and best use analysis.

### **Respondent**

[19] The Respondent explained that all non-residential properties in the City are assessed equitably at no less than the basic threshold land value. If the income component value is less, then the land value is assessed. If the income component is higher, the income is assessed.

[20] Typical value parameters for income, and unit rate for land value, have been used to calculate two assessment estimates for the subject property.

[21] The Respondent noted that the subject property has been assessed based on land value every year since 2011, because capitalized income value does not exceed land value, (Exhibit R1, page 12).

[22] The Respondent argued that the subject property is a large 41,958 sf. land parcel in an excellent corner lot location, and the current improvement of 26,907 sf. does not generate sufficient income at typical rates to contribute to market value in excess of basic land value.

[23] The Respondent submitted several previous CARB decisions that generally support the premise that in the context of mass appraisal, assessment of improved properties below the threshold of their underlying land value is both incorrect, and inequitable.

### **Sub-Issue: Should the subject property assessment be discounted for flood damage?**

#### **Complainant**

[24] The Complainant submitted photographs taken by the property owner illustrating the extent of the flooding on the subject property during the June 2013 flood; and an email indicating the remediation cost of \$2,230,000 (Exhibit C1 (d), pages 127-130).

[25] The Complainant also submitted the Amended 2014 Assessment Explanation Supplement for the non-residential property located at 1313 1st ST SE, indicating the assessment was discounted by \$363,327 for flood damage, (Exhibit C1 (d), page 134).

#### **Respondent**

[26] The Respondent acknowledged that there was overland flood water on the subject property during the June 2013 flood.

[27] The Respondent pointed out that the email correspondence from the property owner only provided the lump sum value of \$2,230,000 for the cost of remediation and restoration of the existing improvements. The scope of work was not explained, there were no cost quotes or start/end dates reported.

[28] The Respondent explained that the amended assessment for the property at 1313 1st ST SE was to compensate for remediation of damage to improvements that still existed on December 31, 2013.

[29] However, there was no evidence of remaining damage to the improvements on the subject property at that date. In any event, because the subject is assessed based on land value, no reduction for damage to the improvements would have been available; in line with the assessment policy for all non-residential property affected by the flood.

[30] The capitalized income generated by the improvements on the property at 1313 1<sup>st</sup> ST SE, also exceeds the value of the land; while the reverse is true for the subject property.

**Board's Reasons for Decision:**

[31] The Board accepts that in the absence of a formal "highest and best use study"; if the improvements on a property do not produce capitalized income value exceeding land value, then the value of the land represents the best estimate of market value for assessment purposes.

[32] The Board finds that insufficient evidence was submitted to conclude that the land rate applied in the assessment of the subject property exceeded market value.

[33] The Board finds that the evidence supports a conclusion that the land value only assessment amount represents a reasonable estimate of market value, and assessment equity for the subject property.

[34] Given the decision of the Board on the land value assessment, the request to discount the assessment by \$2,230,000 for flood damage would be denied, because the improvements on the subject do not contribute to the assessment value of the property.

[35] In addition, the Board finds that the information on the details of loss and remediation presented by the Complainant is insufficient to justify the requested discount, even if it was available.

DATED AT THE CITY OF CALGARY THIS 4<sup>th</sup> DAY OF September 2014.



T. B. Hudson

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1 (a), (b), (c) and (d)	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 MGB Administrative Use Only**

<i>Decision No. 74487P-2014</i>			<i>Roll No.068241207</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Low Rise	Market value/ equity	Land Only vs. Income value and Flood damage