



Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of the complaint against the 2014 property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Telsec Property Corporation, COMPLAINANT
(as represented by Altus Group)***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
P. Pask, BOARD MEMBER
J. Pratt, 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:	175154400
LOCATION ADDRESS:	75 Crowfoot Rise NW
FILE NUMBER:	74523
ASSESSMENT:	\$4,540,000

This complaint was heard on 11th day of June, 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:

- *K. Fong, Altus Group*

Appeared on behalf of the Respondent:

- *J. Yeung, Assessor*
- *B. Thompson, Assessor*

Procedural or Jurisdictional Matters:

[1] The Board as constituted to hear and decide on this matter was acceptable to both parties.

Property Description:

[2] The subject property is located at 75 Crowfoot Rise NW, in the Crowfoot Power Centre. The property is a stand-alone building of 28,057 square feet (SF) on a 1.19 acre site. It was constructed in 2002 and was operated as Crowfoot Village Honda, a car dealership. The building consists of an auto dealership showroom with offices on the upper (main) level, and service bays and parking on the lower level (partially below ground). The property is zoned as "Commercial – Corridor 2: CM0701 Retail Vehicle/Accessories – Car Dealership". Village Honda relocated and the property was being advertised as redevelopment commercial space as of December 31, 2013 (condition date).

[3] The 2014 property assessment is done on a Vacant Land and Building Cost Approach, with the land value being \$2,059,378 and an improvement value (based on Marshall & Swift Cost Guide) of \$2,481,929. The resulting assessment is \$4,540,000 (rounded).

Issues:

[4] The Complainant stated that the 2014 Property Assessment is too high. The best indication of value for assessment purposes as of July 1, 2013 is the June 2012 sale price of the property.

Complainant's Requested Value:**\$4,300,000****Board's Decision:**

[5] The 2014 Property Assessment of \$4,540,000 is confirmed. The Board is not persuaded that the sale price reflects the value of the property as of June 2012 or of the assessment date of July 1, 2013. The Complainant did not demonstrate that the 2014 Assessment is incorrect.

Legislative Authority, Requirements and Considerations:

[6] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as "the amount that a property, as defined in Section 284(1)(r) of the Act, might be expected to realize if it is sold on the open market by a willing seller to a willing buyer." Section 467(3) of the Act states that "an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations". The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

[7] The Board notes that the words "fair" and "equitable" are not defined in the MGA or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard applied to all properties in that property category.

Issue 1: What is the correct market value of the subject as of July 1, 2013?**Complainant's Position:**

[8] The Complainant presented Exhibit C1, showing photographs of the property when occupied by Crowfoot Village Honda (circa 2010), a copy of the Commercial Edge sales data sheet (page 44, Exhibit C1), the transfer document (page 45-47, Exhibit C1) and land title (page 48-49, Exhibit C1). The Complainant stated that the price paid for the subject property as of June 26, 2012 was \$4,300,000, according to the transfer documents and Commercial Edge sale document.

[9] The Complainant stated that the 2014 Assessment is based on the value of the land as vacant, plus the depreciated cost of the improvements as determined using the Marshall & Swift Cost Guide. The Complainant argued that this was a rather imprecise approach to valuation, and that the best indicator of market value is a current sale price. The valuation approach used by the City in preparing the 2014 Assessment is property specific, in that the actual improvements are valued using a Cost Approach, just as a sale price is property specific.

[10] The Complainant stated that because there are so few sales of this type of property, it is not possible to derive a time adjustment factor for this property type. However, the sale date is current to the valuation date so is a valid indicator of value.

Respondent's Position:

[11] The Respondent stated that the Complainant did not dispute either the vacant land value or the value of the improvements as presented in the 2014 Assessment Explanation Supplement for the subject property (page 11, Exhibit R1), therefore the Respondent did not present any evidence to support these values.

[12] The Respondent's position is that the subject sale is not a good indication of the value of the property because the sale price was determined in September 2010, the property was not listed for sale or professionally brokered, and the property transferred between related parties (non-arms length transaction). Furthermore, the requested assessment is within 5% of the assessed value therefore the Board is directed not to change the assessment.

[13] The Respondent presented a Non Residential Property Sale Questionnaire completed by the purchaser on September 5, 2012 (page 20-23, Exhibit R1). This document states in question 5 and 6 that the price was agreed to "2010/09/15" and the Offer to Purchase signed "2010/11/04". The answer to question 2 and 4 states that the property was not listed for sale and that no appraisal report or opinion of value was prepared within the last twelve months (presumably prior to the September 5, 2012 date the questionnaire was completed).

[14] The Respondent presented land titles and transfer documents for the subject property and Corporate Search documents that show that the vendor and purchaser are shares holders in a company, MAC73 Ltd. (Exhibit R1). The Respondent argued that the parties have or had a business relationship at the time of the transaction, and therefore the sale is considered non-arms length by the City.

[15] The Respondent argued that the requested assessment is within 5.6% of the assessed value, which is too small a reduction for the Board to consider. To support this position, the Respondent presented CARB Decision 1677/2011-P (page 49-52, Exhibit R1).

Findings of the Board

[16] The Respondent argued that because the requested assessment is within 5.6% of the assessed value (therefore it is a "relatively minor reduction"), the Board should not consider the requested assessment. The Respondent referred to the "±5% tolerance range set by legislation" (page 5, Exhibit R1) and to CARB Decision 1677/2011-P. The Board notes that the ±5% tolerance referred to is from Section 10 of MRAT which discusses to the quality standard that an assessor must meet when preparing assessments. This Section does not refer to the authority of the Board or the scope of its decisions. The CARB decision relates to a particular file and the evidence presented therein, and is not intended to be a blanket statement or a statement of Board policy. The Board finds CARB Decision 1677/2011-P to not have any relevance to the matters before the Board. The assessment appeal process and the authority of a Composite Assessment Review Board is to determine the market value of a property under complaint for assessment purposes in accordance with the Act. To that end, the Board is not restricted in making any quantum or percentage change to an assessment if it is justified. Furthermore, the percentage change requested is 5.6%, so outside the "range of tolerance" suggested by the Respondent. The Board finds this argument frivolous and demonstrating a lack of understanding of the Act and its Regulations.

[17] While the Board is mindful that a sale price has been accepted as the "best indicator of value" by previous Composite Assessment Review Boards, the Board is also aware that such a sale must meet the test of a market transaction. Section 3 of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard is market value, however, definition of market value in Section 1(1)(n) of MRAT is rather brief. Nevertheless, a market price is determined by exposing the property to the market for an appropriate period, a price being negotiated between knowledgeable parties and the parties being at arms-length or acting independently and in their own best interests. Given the evidence before the Board, the Board is not persuaded that this transaction meets the definition of a market transaction.

[18] The sale price, to be accepted as a good indication of market value, must be current with the assessment date, or the sale price adjusted to reflect changes in the market between the sale date and assessment date. The Respondent presented evidence that indicates that the price was agreed to and the offer to purchase occurred in 2010, and that the June 2012 date refers only to the date the title transferred. The Complainant did not provide any evidence to the contrary, nor specifically dispute this issue other than to argue that the transaction date is typically used to reflect sale date. The Board finds that at the very least, the sale date is uncertain and therefore not a reliable basis on which to establish value. The Complainant did not provide a time adjustment or market evidence to show that a time adjustment is not required. The Board is not persuaded that the sale price is current with the valuation date.

[19] Other than present evidence and argument related to the use of the sale price as the best indication of assessed value, the Complainant did not dispute or demonstrate that any aspect of the 2014 Assessment calculation or derivation is incorrect. Section 467(3) of the Act states that "an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations". The Complainant did not persuade the Board that the 2014 Assessment is incorrect, or is not fair or equitable.

[20] For the reasons above, the Board confirms the 2014 Assessment.

Board's Reasons for Decision:

[21] The Board was not presented with any evidence or argument that the 2014 Assessment is not correct, or is not fair or equitable. The Board is not persuaded that the subject sale is a valid market transaction, or that the sale price reflects market value as of the July 1, 2013 valuation date. The Board confirms the 2014 Assessment of \$ 4,540,000.

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



Ivan Weleschuk

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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Commercial	Car Dealership	Use of sale price to indicate assessment value	