



## **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:

**CANADA LANDS COMPANY CLC LIMITED.,  
(represented by Altus Group), COMPLAINANT  
and**

**The City Of Calgary, RESPONDENT**

before:

**M. CHILIBECK, PRESIDING OFFICER  
D. MORICE, BOARD MEMBER  
R. KODAK, 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: 067096305**

**LOCATION ADDRESS: 522 - 12 AV SW**

**FILE NUMBER: 74551**

**ASSESSMENT: \$10,210,000.**

This complaint was heard by the Composite Assessment Review Board (Board) on 23rd day of July, 2014 in Boardroom 3 on Floor Number 4 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *D. Chabot, Agent of Altus Group*

Appeared on behalf of the Respondent:

- *R. Ford, Property Assessor of the City of Calgary*

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

[1] Neither party raised any objections to any member of the Board hearing the subject complaint.

[2] Neither party raised any procedural or jurisdictional matters.

**Preliminary Matter:**

[3] Neither party raised any preliminary matter(s).

**Property Description:**

[4] The subject property is an improved parcel of non-residential land with 34,137 square feet (sq. ft.), designated City Centre Mixed Use District (CC-X) with a low-rise quality C building with 51,414 sq. ft. constructed in 1965 and renovated two years ago.

[5] The subject property is situated in the Beltline District in market zone 3 (BL3) on 12 AV between 5h St and 6th ST located in the southeast quadrant of the City of Calgary.

**Issues:**

[6] The Complainant identified the matter of the assessment amount under complaint on the complaint form and attached a schedule listing several reasons (grounds) for the complaint. At the outset of the hearing the Complainant identified the following issue:

1. The subject property should be assessed on its capitalized income value.

**Complainant's Requested Value: \$9,010,000.**

**Board's Decision:**

[7] The Board confirmed the assessment at **\$10,210,000.**

**Legislative Authority, Requirements and Considerations:**

[8] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of the Act:

*S.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).*

[9] For purposes of the hearing, the CARB will consider Part 9, Division of the Act:

*S.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*

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

*S.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*

*(c) must reflect typical market conditions for properties similar to that property*

**Assessment Background:**

[11] The subject property is located in market area of beltline 3 (BL3) and assessed at its land value using the direct sales comparison method at a base rate of \$285 per square foot (sq. ft.) of land area plus a corner influence adjustment of 5% for an assessment of \$10,210,000. (\$300 per sq. ft.).

**Position of the Parties****1. Income Value versus Land Value****Complainant's Position:**

[12] The Complainant argued that the subject property should be valued at its actual use, that being a two-storey office/retail building, using the capitalized income value, not at its land value. There is an excessive amount of office space available which was supported by a real estate report from Barclay Street and asserted there is a limited "appetite" to re-develop property such as the subject.

[13] The Complainant argued that the Respondent should have done a highest and best use study of the subject property that would meet the following criteria.

*"The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value"*

[14] The Complainant asserted that if a highest and best use analysis were done for the subject property, it would fail because it would not meet the test of being "financially feasible". Therefore the highest and best use is the current use as an office/retail property and therefore should be valued by the capitalized income method.

[15] The Complainant valued the subject property on the income method by applying typical Class C factors for a value of \$9,019,967 truncated to \$9,010,000. (C1aP18).

[16] Several Calgary Board decisions were provided supporting the position of valuing the subject property using the capitalized income method to reflect its current use as an income producing property.

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

[17] The Respondent argued that their practice is to assess property at the greater of its income value or land value and this is supported by board decisions.

[18] The Respondent asserted the land value is greater than the income value and therefore the 2014 assessment reflects the highest valuation.

[19] The Respondent provided several Calgary CARB decisions supporting their position of using the higher of the income value or the land value.

[20] The subject land was valued at the base rate of \$285 per sq. ft. of land area (R1P17) plus a corner adjustment of 5% for a net rate at \$300 +/- per sq. ft. The Respondent provided a chart showing the respective land rates for each of the beltline market zones with BL 3 at a rate of \$285 per sq. ft.

[21] The Respondent supported the land rates for BL3, BL4, BL6 and BL7 at \$285 per sq. ft with an analysis chart showing nine sale comparables which have a median rate of \$288 per sq. ft. There are six sales in BL3 and three sales in BL4

[22] In summary, the Respondent asserted that if the land sales in BL3 were analysed separately from the land sales in BL4, the median sale rate in BL3 would be \$325 which would mean there would be a greater spread between the income value and land value.

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

[23] The Board is not convinced by the Complainant's argument that the market value of the subject property is its capitalized income value. The Board accepts the capitalized income value as presented by the Complainant as it was not disputed by the Respondent and accepts the land valuation as presented by the Respondent as it was not disputed by the Complainant. The two valuations show that the income value is less than the land value

[24] The Board is persuaded by the Respondent's argument and evidence that the subject's value is its land value. The improvements do not contribute any value to the land, they probably provide some cash flow to cover the operating costs. There is no doubt in the Board's mind that the subject property is under-improved.

[25] The Board is not convinced that a willing seller would pass up the opportunity to obtain the greater value; however a willing purchaser would be willing to capitalize on the lower value.

[26] The Board accepts that the land value acts as a threshold value. As in this case, the income valuation of the subject is below its land value and therefore the land value represents the market value of the property.

[27] Established valuation theory is based on the premise that if the improvements of a property are not capable of producing a capitalized income value that is greater than the value of the land, then the land value represents the market value of the property.

[28] The Board acknowledges there are decisions that support the Complainant's position and decisions that support the Respondent's position, which appear to be contradictory. However the Board is not bound by previous decisions and makes its decision on the evidence and argument presented at the hearing. They may be persuasive or provide guidance depending on the case made at the hearing by the parties.

[29] Even though not contested by the Complainant, the Board notes the land sales in BL3 range from \$205 to \$417 per sq. ft. and the land sales in BL4 range from \$113 to 237 per sq. ft.

[30] According to foregoing reasons the Board's decision is to make no change to the assessment.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF AUGUST 2014.

A handwritten signature in black ink, appearing to read 'M. Chilibeck', is written over a horizontal line.

M. CHILIBECK

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1a	Complainant's Disclosure
2. C1b	Complainant's Disclosure
3. C1c	Complainant's Disclosure
4. R1	Respondent's 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.*

**CARB Identifier Codes**

<b>Decision No. 74551P-2014</b>			<b>Roll No. 067096305</b>	
<b><u>Complaint Type</u></b>	<b><u>Property Type</u></b>	<b><u>Property Sub-Type</u></b>	<b><u>Issue</u></b>	<b><u>Sub-Issue</u></b>
CARB	Office	Low-Rise	Valuation Method	Income Value vs. Land value

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