

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:

***First Capital Holdings (ALB) 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:

ROLL NUMBER:	067189795
LOCATION ADDRESS:	1515 8 ST SW
FILE NUMBER:	74670
ASSESSMENT:	\$6,820,000

This complaint was heard on 30th day of June, 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. Yau* *Assessor, City of Calgary*

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

- [1] There are no preliminary, procedural, or jurisdictional issues.

Property Description:

- [2] The subject is a vacant land parcel comprised of 22,804 square feet at the corner of 8th ST and 16th AV SW in the Beltline (BL4) Non-Residential Zone [NRZ]. The Direct Sales Comparison Approach to value is used with a base rate of \$285 per square foot and a positive influence of five percent (5%) for corner lot.

Issues:

- [3] The single issue before the Board is the assessment value with the Complainant requesting an assessment based on the actual sales value of the subject property in accordance with a court decision on the matter; *697604 Alberta Ltd. V. Calgary (City of)*, 2005 ABQB 512 [Acton decision].

Complainant's Requested Value: \$5,500,000

Board's Decision:

- [4] The Board changed the assessment to the requested value of \$5,500,000.

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;

Court of Queen's Bench of Alberta

697604 Alberta Ltd. v. Calgary (City of), 2005 ABQB 512 [Acton decision] at paragraph 24

Quoting: **Regional Assessment Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al. (1984), 47 O.R. (2d) 766 (Ont. H.C.J. Div. Ct.)** at p. 767:

"...the price paid in a recent free sale of the subject property itself, where, as in this case, there are neither changes in the market nor to the property in the interval, must be very powerful evidence indeed as to what the market value of the property is. It is for this reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.

...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value."

Position of the Parties

Complainant's Position:

- [5] The Complainant provided the '2014 Property Assessment Notice' showing the assessment has increased approximately thirty percent (30%) on a year over year basis (C1 p. 6).
- [6] The Complainant disclosed 'Property Assessment Summary Report', photographs and maps (C1 pp. 7-11).
- [7] The Complainant explained their request is at the actual sales value found July 4, 2012, basing their request on the Acton decision where the Court of Queen's Bench found the recent arm's length sale of the subject is the best indicator of assessment value (C1 pp. 13-34).
- [8] The Complainant reviewed four previous Board decisions; CARB70276/P-2013, CARB 1430/2010-P, ARB 0789-2010-P, and CARB 73266P/2013. In each case the Board relied on the recent arm's length sale of the subject property to reach their decision (C1 pp. 35-51).
- [9] The Complainant explained the Respondent's 'Land Sales Analysis' provided through a '2014 Property Assessment Information Request' [PAIR], which includes all of the Beltline finding a base value of \$285 per square foot. The Complainant demonstrated that when Non-Residential Zone [NRZ] BL4 is separated that the median value is the subject property sale at \$241.19 per square foot (C1 pp. 52-61).
- [10] The Complainant concluded with a requested assessment value of the subject sale amount based on the Acton decision; however, noting the median of the BL4 NRZ is also the sale amount (C1 p. 63).

Respondent's Position:

- [11] The Respondent reviewed the summary of testimonial evidence and the 'Property Assessment Detail Report' indicating the issue is the land rate applied to the subject's 22,804 square feet at a rate of \$285 per square foot plus five percent (5%) for corner lot influence for a

total truncated assessment of \$6,820,000 (R1 pp. 3 and 7).

[12] The Respondent explained the 'Beltline Non Residential Zone Map' indicating that BL3, BL4, BL6 and BL7 were grouped together when analysing sales to arrive at the \$285 per square foot base vacant land value. The location of the subject was shown on the map placing it in BL4 bordering BL3. The Respondent noted that of the sales analysed, when compared to just the sales in the last eighteen (18) months the median became \$325 per square foot indicating a rising market (R1 pp. 9-10).

[13] The Respondent provided maps and photographs to demonstrate the sale of the subject property in context to other analysed sales. Two sales just two blocks east of the subject sold for \$329 and \$332 per square foot indicating that the assessed \$285 per square foot is less than actual sales in the area (R1 pp. 11-20).

Board's Reasons for Decision:

[14] The Board examined the vacant land sales provided by the Respondent and noted that no time adjustment is made indicating that all the sales reflect market value on the valuation date of July 1, 2013. The Respondent used the subject sale within their study finding it to be a valid arm's length transaction. The Board finds the sales reported by the Respondent to be valid with no adjustment required for time of sale.

[15] The Board found two sales of six addresses at the corner of 15th AV and 6th ST SW is a land assembly introducing possible motivation as an influence that could skew the results of the analysis.

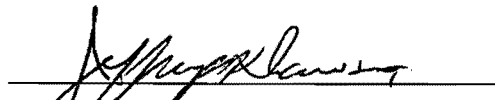
[16] The Board found the vacant land sales in BL4 created an adjusted median of \$230 per square foot with the eighteen (18) month median remaining at \$230 per square foot.

[17] The Board found the vacant land sales in BL3 created an adjusted median of \$324 per square foot with the eighteen (18) month median at \$329 per square foot.

[18] The Board found that the trend is not upward as suggested by the Respondent, that instead the timing of sales between the combined zones is analysed in error. The Board found the evidence indicates a clear delineation of value between the BL3 and BL4 zones with no upward trend in value over the analysed period.

[19] Regardless of the evidence showing the subject property should be assessed at the median value of BL4 sales, the Acton decision takes precedence and the actual sale value during valuation year – adjusted to the valuation date, is the correct assessment, which in this case arrives at the same value of \$5,500,000.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF July 2014.



Jeffrey Dawson
Presiding Officer

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

NO.	ITEM
1. C1 – 65 pages	Complainant Disclosure
2. R1 – 33 pages	Respondent Disclosure
3. C2 – 5 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.*

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