

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:

KO RYO LIMITED
(as represented by Assessment Advisory Group)

COMPLAINANT

and

THE CITY OF CALGARY

RESPONDENT

before:

T. SHANDRO, PRESIDING OFFICER
J. RANKIN, 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: 067233619

LOCATION ADDRESS: 1324 – 10 Avenue SW

FILE NUMBER: 74803

ASSESSMENT: \$8,700,000

This complaint was heard on June 30, 2014, at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- S. Cobb, Agent, Assessment Advisory Group

Appeared on behalf of the Respondent:

- M. Byrne, Assessor, The City of Calgary

Procedural or Jurisdictional Matters

[1] There were no preliminary or jurisdictional matters arising in this matter.

Property Description

[2] The subject property is a 35,953 square foot ("SF") parcel assessed as land only. It is located in the Beltline in the submarket area defined by the Respondent as BL4 (fronting on 10 Avenue SW between 12 and 13 Streets SW), and is improved upon with retail strip centre.

[3] The subject property was assessed at a land rate of \$285/SF with a 15% influence reduction for abutting a train track.

Issues

[4] The Board identified the issue as follows:

1. Did the City use the correct Land Rate for the subject property?

[5] There are two sub-issues to ask in this matter: (a) was the subject property assessed in the incorrect submarket, and (b) whatever submarket is the correct one in which the subject property should be assessed, what should be the Land Rate for the submarket?

Complainant's Requested Value

[6] In the Complaint Form, the Complainant requested a reduced assessment of \$7,050,000. At the hearing the Complainant amended the requested value to \$5,040,000.

Board's Decision

[7] The Board reduces the assessment of the subject property to \$7,020,000.

Legislative Authority, Requirements and Considerations

[8] Section 293 of the Act requires that:

- (1) In preparing an 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.

[9] Section 4 of the *Matters Relating to Assessment and Taxation Regulation* ("MRAT") states:

- (1) The valuation standard for a parcel of land is
 - (a) market value, or
 - (b) if the parcel is used for farming operations, agricultural use value.

Complainant's Position

[10] The Board understood the Complainant's argument to be, essentially, that the subject property was assessed incorrectly in submarket BL4.

[11] The subject property is located close to the western edge of submarket BL4, which is a large, nearly rectangular area with 10 Avenue SW as the north boundary, approximately 7 Street SW as the east boundary and approximately 15 or 16 Avenues SW as the south boundary. The western boundary zigzags close to 14 Street SW. BL5, which is adjacent to BL4 on the west, includes a strip of buildings on both sides of 14 Street SW for blocks south of about 11 Avenue SW.

[12] The Land Rate of BL5 is \$165/SF. The rates for BL4, BL3 (adjacent to the east of BL4) and BL6 (adjacent to the south) are all \$285/SF.

[13] The Complainant provided four equity comparables along 14 Street SW in BL5 which were therefore assessed with a rate of \$165/SF. The Complainant argued that these comparables were close to the subject property and therefore requested that the subject property be assessed at a rate of \$165/SF.

Respondent's Position

[14] The Respondent submitted that the equity comparables of the Complainant should not be considered because those properties were all located in BL5. The subject property is in BL4 and therefore should only be compared to BL4 properties.

[15] The Respondent provided a Land Rate Study for submarkets BL3, BL4, BL6 and BL7. The Study included nine sales in 2011 and 2012: six properties were in BL3, three were in BL4 and no properties were in BL6 or BL7. The median for these properties was a land rate of \$288/SF.

[16] The Respondent's position begged several questions from the Board, namely:

- (a) Why are the boundaries of each submarket the way they are? For example, why would the boundary of a submarket zigzag and include some buildings along a street but not an adjacent building? (The reason being that the Complainant appeared to be

arguing that the boundary for BL4 and BL5 was incorrect and should be assessed using the same rate as those in BL5.)

(c) Why would the Land Rate Study for BL4 include sales from BL3?

[17] The Respondent however was unable to answer most of the Board's questions. She advised the Board that she did not know these answers, and this matter was not her file. The only answers the Respondent provided were circular. For example, the boundaries were the way they were, because that was the way the boundaries were. The Respondent advised the Board that should there be any mistakes in the assessed value, the Respondent would correct them for next year's assessment.

Reasons for Decision

[18] The Respondent was particularly unhelpful to the Board in being unable to answer most of our questions. While we appreciate that an assessor would want to correct any mistakes in a future assessment for a property, it is not a correct remedy for an appeal before this Board.

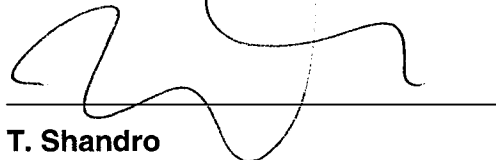
[19] The Board cannot agree with the Complainant that the subject property should be assessed as though it were located within the submarket of BL5, because there was insufficient information before the Board to indicate one way or the other which submarket in which the subject property should be assessed.

[20] However, the Board is in the difficult position of also being given insufficient information by the Respondent that the assessed land rate of \$285 is fair or equitable. From the information before the Board, the Board determines that the subject property is easily distinguishable from the BL3 sales in the Respondent's Land Rate Study.

[21] The mean rate of the three BL4 properties in the Land Rate Study appears to be \$190/SF and the median \$230/SF. The BL3 properties have a mean of \$317/SF.

[22] The Board determined that the correct rate for the subject property should be \$230/SF. With the 15% influence reduction for abutting a train track, the Board therefore reduces the assessment value of the subject property to \$7,020,000.

DATED AT THE CITY OF CALGARY THIS 13th DAY OF August 2014.



T. Shandro

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.*

For Administrative Purposes Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Vacant	Sales	Land Value