



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:

2102 Centre Street Ltd. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
A. Huskinson, BOARD MEMBER
J. Rankin, BOARD MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board (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:	046083101	046083408
LOCATION ADDRESS:	2102 Centre St NE	2114 Centre St NE
FILE NUMBER:	75612	75610
ASSESSMENT:	\$1,560,000	\$617,500

This complaint was heard on the 28th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *K. Fong, Agent, Altus Group*
- *D. Main, Agent, Altus Group*

Appeared on behalf of the Respondent:

- *S. Bazin, Assessor, City of Calgary*
- *T. Johnson, Assessor, City of Calgary*

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

[1] The properties under these two files have two different legal descriptions and roll numbers but are contiguous. They have the same owner and the same issues and evidence apply to both. The Parties requested that they be heard together and a common decision be produced for both. Further, the Board was requested to carry forward the relevant evidence, arguments, questions and responses from the hearings on files 74974 and 74973, Composite Assessment Review Board (CARB) decision 74974P-2014, heard earlier this day with all the same parties present. The Board agreed to the requests.

Property Description:

[2] These contiguous properties are located along Centre St. N, between 20 and 21 Av NE within the community of Tuxedo Park and are designated Direct Control District with a Commercial-Corridor 2 (C-COR2) application. They are vacant but were formerly the site of an Esso gas bar. File 75612 contains 18,675 square feet (sq.ft.) and File 75610 contains 6,250 sq.ft.. They have been assessed using the City's 2014 Commercial Land Values, which are based on the Sales Comparison approach to value, with the addition of a corner lot and traffic main influence on 75612 and a traffic main influence on 75610.

Issues:

[3] Are the parcels fairly and equitably assessed having regard to recent sales and the stigma attached to contaminated lands?

Complainant's Requested Value:

[4] On the Complaint form, the value requested for file 75612 was \$850,000 & for file 75610 the requested amount was \$350,000. At the time of the hearing, these amounts were revised to \$933,750 and \$312,500 respectively. The combined assessment would total \$1,246,250.

Board's Decision:

- [5] That the assessment for file 75612 be confirmed at \$1,560,000.
- [6] That the assessment for file 75610 be confirmed at \$617,500.

Legislative Authority, Requirements and Considerations:

[7] A Composite Assessment Review Board (CARB) derives its authority from the *Act*, section 460.1, which reads as follows:

- (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).

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.

Sections 2 and 4 of the *Matters Relating to Assessment and Taxation Regulations (MRAT)* state:

- (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.
- 4(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.

Position of the Parties

Complainant's Position:

[8] It was the Complainant's contention that there is a stigma attached to the sale of gas bars because of environmental factors; specifically contamination. He argued that they usually sell at a discount from market value and in support of that provided some sales documents that demonstrated, in some instances, sales values less than listing prices or, in others, less than the assessed value. Some of the sites had been remediated but not others. The Complainant noted that the subject parcel was now a clean or remediated site.

[9] The Complainant also pointed out in his C1 submission a table of 4 former gas bar sales, not including the subject, that occurred between March 2010 and the end of 2012. The Commercial Edge reports indicated that two of the sites had been remediated but were silent on the other two. The Complainant stated that all 4 sales were clean sites. Those sales

demonstrated an average sales price per sq.ft. of \$46.37 and a median sales price of \$48.17 which, for the purposes of his assessment request, the Complainant rounded upwards to \$50. The City's assessments, combined, reflect a value of \$87.36 for the subject.

[10] The Complainant asked that his argument with respect to recent sales representing market value be carried forward; however, no sale of the subject was presented.

Respondent's Position:

[11] The Respondent's position with respect to contamination influences was that they had no reports or evidence of the degree of contamination that had affected the site and nor did it have any documentation of the costs involved in remediating it. Accordingly, the Assessor was not able to determine how the assessment might be affected. The Respondent pointed to the City's description of influence adjustments which, as they apply to environmental concerns, state that "it is applied to contaminated properties where sufficient information has been provided to the Assessment business unit to determine the nature and extent of the issue, as well as remediation cost estimates."

[12] The Respondent referred to his previous submission with its chart of 12 commercial lands sales but, more importantly, he documented the listing information, the RealNet Land Transaction Summary and Land Titles' transfer documents supporting the sale of the subject on December 31, 2012. The property was listed for \$2,700,000 and sold for \$2,500,000.

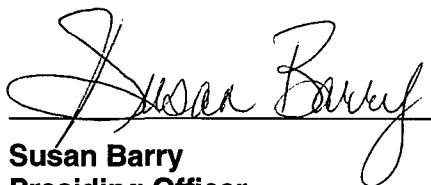
Board's Findings and Reasons for Decision:

[13] The Board accepted that the site had been contaminated and that contamination may have had an impact on the eventual sale.

[14] The Board also found that, as in its previous decision, CARB 74974P-2014, it agreed with the reasoning in the 2013 CARB decision and gave deference to Madame Justice Acton, as cited in CARB 73791/P-2013, in asserting that "the recent sales price, if available as it was in this case, is in law and, in common sense, the most reliable method of establishing market value."

[15] In this instance, the sale price, while less than the asking price, was still more than the City's assessment for the current year and the Board found no reason to further reduce the assessment.

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



Susan Barry
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

Municipality	Roll Number	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary	046083101	Other	Vacant Land	Sales Approach	Contamination
Calgary	046083408	Other	Vacant Land	Sales Approach	Contamination