



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:

444 SEVENTH INC.
(as represented by Altus Group), **COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER
B. Jerchel, BOARD MEMBER
J. Kerrison, 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:	068247907
LOCATION ADDRESS:	609 3 St SW
FILE NUMBER:	75694
ASSESSMENT:	\$1,120,000

This complaint was heard on Monday, the 9th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 3, at 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 8.

Appeared on behalf of the Complainant:

- M. Cameron, Agent, Altus Group

Appeared on behalf of the Respondent:

- D. Zhao, Assessor, The City of Calgary
- S. Gill, Assessor, The City of Calgary

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

[1] There were no questions of Procedure or Jurisdiction raised prior to, or during the hearing.

Property Description:

[2] The subject is a concrete laneway between two office towers (both owned by the same party), in downtown Calgary, comprising 4,338 sf. The subject property controls access to both loading docks and parking for the adjacent towers.

Issue:

[3] Whether the subject parcel should be assessed at its market value as vacant land, or at a nominal value because its only real utility is access to the subject owners loading docks and parking.

Complainant's Requested Value: Nominal Value, or \$ 1,000.00

Board's Decision:

[4] The Board finds the Complainant's requested nominal value of \$1,000 is the correct value for the subject property.

Position of the Parties

Complainant's Position:

[5] The Complainant's position was that the Respondent used to assess the subject at a nominal rate up until 2012, and that assessment ought to remain in place. While acknowledging that the subject land was simply a laneway between two high rise towers, the Complainants pose the question: who would purchase the subject lands now for even the original purchase price, keeping in mind that the subject land cannot be developed.

[6] Accordingly, they say the subject has no realizable market value

[7] The subject land was purchased in 1999 (three years after the adjacent buildings were purchased) for \$175,000. The Complainant's stated intent on purchasing the land was that they wanted the "additional security" that ownership of the land gave them, because with ownership, they could control access to the laneway

[8] Shortly after the purchase, the City granted the Complainant a Right of Way on the subject land on the express condition that the Complainant refrain from building any kind of a structure or changing the grade of the subject land.

[9] The Complainant went on to state that if the owner of the adjacent buildings were to sell, the subject would of necessity have to be included in the sale. The Complainant then provided a prior CARB decision **CARB 1674-2012-P** which dealt with almost exactly the same question as posed here with that Board deciding that the proper value was a nominal value based on the lack of desirability and development potential in a laneway similar to the subject.

[10] The Complainant completed their initial argument by providing a copy of the subject title showing a utility Right of Way on the subject property.

[11] In rebuttal, the Complainants argued that the purchase of the subject laneway was not a typical sale. They suggest that the subject would not have sold on its own and that the sale was in reality determined by the surrounding lands. They also suggested that the subject purchase by the Complainant falls short of a bona fide open market transaction, in that no one else would likely be interested in the subject, given its development limitations.

Respondent's Position:

[12] The Respondent argued the subject property was assessed using the direct comparison approach to value. They cited and relied on the influences stated in their Property Assessment Detail Report to bolster their position. They also cited the Transfer of Land purchase documents for the Complainant's purchase of the subject, referring directly to the Affidavit of value, which of course states the consideration paid by the Complainant (\$175,000) as being the true (or agreed) value of the subject.

[13] In argument, the Respondent referred to an Asset Management and Capital Works Report to the Land and Asset Strategy Committee, dated December 6, 2005, which refers to the concept of Remnant Lands. This reference does not however, assist their position. They also argued that the subject owner may be assembling land for future development, but this was a mere suggestion, because no substantiating evidence was presented.

[14] The Respondent also argued that there was a comparable situation in the sale of some

downtown laneway property to Imperial Oil, not far from the subject. The situation there was similar except that the property surrounding the laneway was a parking lot, which did have substantial development potential, unlike the subject.

[15] The Respondent carried on arguing that the subject should not be given a nominal value because that would be inequitable. They said the assessment should capture the market value if the subject sells. They concluded by re-stating that the subject has been fairly and equitably assessed.

Board's Reasons for Decision:

[16] The Board accepts the argument and evidence of the Complainant. The Complainant's evidence of the original sale and evidence of the development limitations convinced the Board that the Complainant's position regarding a nominal assessment was both supportable and correct.

[17] The Respondent's evidence was lacking in substance that bore directly on what was in issue here. The Imperial Oil sale was not directly comparable, even though there were similarities to the subject. The whole of the evidence showed that the only value of the subject is to the owner and the only potential purchaser of the property is the present owner.

[18] The within assessment is herewith reduced to a nominal value of \$1,000.

DATED AT THE CITY OF CALGARY THIS 18th DAY OF July, 2014.



R. Glenn
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Additional Complainant Disclosure
3. 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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Appeal Type	Property Type	Property type	Sub-	Issue	Sub-issue
CARB	Vacant Land			Market Value	Utility of Subject or development potential