



DECISION WITH REASONS

In the matter of the complaint against the 2014 property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Dundee Properties (GP) Inc., COMPLAINANT
(as represented by Altus Group)***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
P. Cross, BOARD MEMBER
A. Maciag, 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:	148061005
LOCATION ADDRESS:	14555 Bannister Rd SE
FILE NUMBER:	75704
ASSESSMENT:	\$1,960,000

This complaint was heard on 18th day of August, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *B. Neeson, Agent – Altus Group*

Appeared on behalf of the Respondent:

- *M. Ryan, Assessor – City of Calgary*

Procedural or Jurisdictional Matters:

[1] Neither party objected to the Board as constituted to hear and decide on this matter.

Property Description:

[2] The subject property is a 1.19 acre (51,668 square feet (SF)) bare land (unimproved) property located at 14555 Bannister Rd SE. The property is located adjacent to an office building and is used as overflow parking for the tenants of the office building (14505 Bannister Rd SE). The property is level and partially gravelled. The property is zoned Commercial-Corridor 3 (C-COR 3).

[3] The 2014 property assessment is calculated using C-COR Commercial Land Values and the following formula, resulting in a 2014 Assessment of \$1,960,000.

1-3,000 SF	\$130.00/SF
3,001 – 20,000 SF	\$ 70.00/SF
Remainder	\$ 12.00/SF

Issues:

[4] The Complainant stated that the 2014 Assessment is incorrect for the following reasons:

- The assessed value of \$38.00/SF is not correct. The correct per square foot value for this property is \$23.00/SF, which better reflects market value.

Complainant's Requested Value: \$1,180,000 using \$23/SF or in the alternative
\$1,490,000 using \$29/SF

Board's Decision:

[5] The 2014 Property Assessment is reduced to \$1,650,000, based on using a land value of \$32.00/SF.

Legislative Authority, Requirements and Considerations:

[6] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as "the amount that a property, as defined in Section 284(1)(r) of the Act, might be expected to realize if it is sold on the open market by a willing seller to a willing buyer." Section 467(3) of the Act states that "an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations". The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

[7] The Board notes that the words "fair" and "equitable" are not defined in the Act or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard applied to all properties in that property category.

Issue 1: What is the correct market value of the subject property?

Complainant's Position:

[8] The Complainant presented evidence regarding the April 2013 sale of this property, along with the adjacent improved (office) property located at 14505 Bannister Rd SE. Sale and transfer documents were presented. The Complainant argued that the total sale price for these two properties reflects market value, but that the allocation of value on the transfer documents does not reflect the market value of either of these two parcels. The subject property is given a value of \$454,917 on the transfer documents.

[9] The Complainant presented a table with three sales of C-COR properties (102 64 Ave NE sold in September 2011, 3301 17 Av SE sold in December 2011 and 14555 Bannister Rd SE sold in March 2013), including the subject sale (page 35, Exhibit C1). The weighted average of these three sales indicates a per square foot value of \$23/SF. The Complainant argued that this is well below the assessed rate of \$38/SF.

[10] The Complainant stated that because the subject sale price as shown on the transfer documents is, in its opinion, below market. Using the two other sales indicates a value of \$29/SF. The \$29/SF is likely a better indicator of value, and offered this value as an alternative to the requested rate of \$23/SF.

[11] The Complainant suggested that the subject property is required for parking by the office property located at 14505 Bannister Rd SE. Furthermore, the subject property cannot be developed due to setbacks and other restrictions associated with the location of the property adjacent to Macleod Trail and a major interchange onto Macleod Trail.

Respondent's Position:

[12] The Respondent presented its 2014 Commercial Land Values table (page 14, Exhibit R1) supported by its Commercial Land Sales 2014 data (page 16, Exhibit R1). This data includes the two sales in the Complainant's analysis, but does not include the sale of the subject. This data was used to derive the table of land rates used to calculate the assessment.

[13] The Respondent stated that he met with the purchaser and verified that the sale was at market. It is the Respondent's position that this is a good sale and that the price as allocated on the transfer to the subject and adjacent parcels is a realistic value of each respective property.

[14] The Respondent agreed that the two sales comparables used by the Complainant, excluding the subject property, are the most similar in size to the subject property.

Findings of the Board on this Issue:

[15] The Board notes the Complainant suggested that the subject property is required by the adjacent office property for parking, but did not provide any zoning or development documents to verify this is the case. The Complainant also stated that the property could not be developed due to setbacks and other restrictions, but did not provide any details. The Board therefore puts no weight on these comments.

[16] The Board concurs with the two parties that the sales located at 102 64 Av NE and 3301 17 Av SE are the most similar in size to the subject and have sale prices that are very similar to one another. These sales are the best indication of value of the subject property, however, they are 2011 sales. The table on page 16, Exhibit R1 provides the time adjusted sale price for each of these sales, being \$31.81/SF and \$32.77/SF respectively, indicating a time adjusted rate of \$32/SF. The Complainant did not offer any time adjusted values.

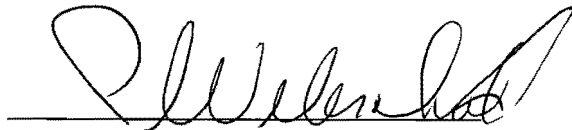
[17] The Board finds that the value of the subject property is \$32/SF, based on the time adjusted value of the two best comparable sales, or a total of \$1,650,000(truncated) for the 51,669 SF parcel.

[18] The Board notes that the subject property sold in April 2013, but was part of a portfolio sale. Both parties agreed that this was a market transaction, but the Complainant suggested that the allocation of value between the subject property and an adjacent bare land property that was part of the portfolio sale may have been somewhat arbitrary. Neither the Complainant or Respondent relied on sale price as an indicator of the market value of the subject property. The Board does not find the subject sale a reliable indicator of value.

Board's Reasons for Decision:

The 2014 Property Assessment is reduced to \$1,650,000 (truncated) based on the Board finding that the value of the subject property is \$32/SF.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF September 2014.



I. Weleschuk
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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Bare Land	C-COR	Market value	