



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:

365220 Alberta Ltd.
(as represented by: Altus Group),

COMPLAINANT

and

The City of Calgary,
RESPONDENT

before:

W. Krynski, PRESIDING OFFICER
A. Blake, BOARD MEMBER
R. Cochrane, 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:	200619823
LOCATION ADDRESS:	6939 32 Avenue NW
FILE NUMBER:	75720
ASSESSMENT:	\$1,300,000

This complaint was heard on 11th day of August, 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:

- *D. Main - Agent Altus Group*

Appeared on behalf of the Respondent:

- *N. Sunderji – Assessor, City of Calgary*

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

[1] No preliminary issues were raised, and neither party objected to the composition of the Board, as introduced at the outset of the Hearing.

Property Description:

The Subject Property consists of a vacant parcel of land located in the community of Bowness. It has a Land Use Designation, of "Direct Control District", and is 0.59 acre in size. The property is currently used by the owner as additional parking for the adjacent Fountain Tire store.

Issues:

[2] The subject property is assessed at a commercial land value. The Complainant is requesting an assessment predicated on Industrial land values.

Complainant's Requested Value: \$460,000

Board's Decision:

[3] For the reasons outlined herein, the Board reduces the assessment to \$460,000.

Legislative Authority, Requirements and Considerations:

[4] The Calgary Composite Assessment Review Board takes authority from the Act and associated Regulations.

Complainant's Position:

[5] The Complainant's evidence and disclosure document was presented and labelled Exhibit C1 (101 pgs.). The sole issue of the Complainant is the valuation of the subject property as vacant commercial land. The Complainant argued that the Direct Control (DC) Land Use Designation under Land Use Bylaw # **97Z2006** [C1; Pg.32] states:

"Land Use

The Permitted and Discretionary Uses of the I-2 General Light Industrial District of Bylaw 2P80, shall be the Permitted and Discretionary Uses respectively."

As such, it was argued that the assessment must reflect the City's NW Industrial land values of \$750,000 per acre, with the additional +5% corner lot adjustment. Furthermore, in prior years, subject assessments were predicated on Industrial land values, and nothing has changed for the current year.

[6] Various maps, aerals and photographs were provided to offer a visualization of the location and subject property characteristics.

[7] The Complainant referenced evidence that the subject property, along with another near-by property, was rezoned to the current land use in 2006. Both properties are being used as commercial parking lots, yet the neighbouring property just one block north, is being assessed at the NW Industrial land rate. The Complainant is requesting equitable treatment and argues that the subject should be assessed similarly.

[8] The Complainant explained that the owner purchased the property from the City in March of 2013 for a sum of \$1,019,000, however, the sale price should not be taken as being indicative of market value. It was argued that the purchaser was highly motivated due to the requirement for additional parking for his adjacent tire store.

[9] The Complainant further noted that the City of Calgary had utilized the sale of the subject property in the "Land Sales" analysis [C1; Pg. 24] that was used by the City as a basis for the Industrial land values on the current 2014 Assessment Roll. Furthermore, the same document identifies the subject parcel as having a "shape factor" influence, yet no such influence is applied within the subject valuation, prompting the Complainant to suggest that the City does not follow any of the guidelines in their own sales analyses.

[10] Finally, the Complainant referenced another vacant DC zoned property, wherein allowable Commercial uses are much more extensive than those of the subject, and yet that assessment reflected an Industrial land rate [C1; Pgs. 44-46].

Respondent's Position:

[11] The Respondent submitted evidentiary documentation, which was labelled Exhibit R1 (41 pgs.). Various maps, aerals and photographs were provided to offer a visualization of the location and characteristics of the subject Property.

[12] The Respondent provided a detailed explanation of the subject assessment [R1; p.9].

[13] In support of the assessed Commercial vacant land rate, the Respondent referenced the charts "2014 Commercial Land Values" and "Industrial/Commercial Vacant Land Influences" [R1; Pg.16-18], which provided a summary of the various rates applied in the assessment of commercial vacant land.

[14] The Respondent referenced a chart titled "Commercial Land Sales 2014" [R1; Pg.32], indicating market support for the previously referenced commercial vacant land assessed rates.

[15] The Respondent provided sale documents pertaining to the recent sale of the subject property, [R1; Pgs.19-23], arguing that the sale was found to be an arms-length transaction, and that the indicated purchase price of \$1,109,000 was far in excess of the Complainant's requested \$460,000 assessment, whilst providing support for the current assessment of \$1,300,000. The Respondent further noted that, even the \$748,000 listing price was almost double the requested assessment.

Board's Reasons for Decision:

[16] The Board considered the evidence and argument provided by both parties, and will comment only on those points that were considered to be relevant to the issues presented.

[17] Consideration was given to the recent sale of the subject property. While the Board would agree that the Purchaser was in all likelihood, very motivated, there is some doubt as to the degree of motivation being such that they were willing to pay such a large amount in excess of the \$748,000 list price. This is in spite of purportedly having been listed on the market for five months prior to purchase. While the sale appears "at first blush" to represent an arms-length transaction, the Board finds it to be questionable.

[18] Notwithstanding the subject sale and the relationship between the \$1,300,000 assessment and market value, the Complainant's evidence in respect of the issue of equity is overwhelming. The Respondent was not able to provide a credible explanation as to why the subject property should be assessed at the current commercial level, while other identical properties are being assessed lower, as vacant Industrial.

[19] The Assessor has an administrative and legal obligation to ensure that assessments are consistent and equitable. This requires that similar properties be assessed in a similar manner, and that any differences be accounted for on a consistent basis. Clearly, the Respondent's evidence does not support the concept of equity relative to the assessment under complaint.

[20] The requested reduction is allowed, and assessment is reduced to \$460,000.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF SEPTEMBER 2014.



Walter F. Kryslinski

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 USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Vacant Land	Industrial	Value	