

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:

***W.C. Appleby Investments Inc. (Represented by AEC Property Tax Solutions),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
I. Fraser, BOARD MEMBER
P. Pask, 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 NUMBERS:	016201907 & 175037100
LOCATION ADDRESSES:	20 & 42 Crowfoot Rise NW, Calgary AB
FILE NUMBERS:	76022 & 76377
ASSESSMENTS:	\$4,290,000 & \$1,820,000

This complaint was heard by a Composite Assessment Review Board (CARB) on the 6th day of August, 2014 in Boardroom 9 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *N. Laird* *Agent, AEC Property Tax Solutions*
- *S. Rickard* *Agent, AEC Property Tax Solutions*

Appeared on behalf of the Respondent:

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

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

[1] Review of the complaint file confirms that the Assessment Review Board Complaint form, Assessment Complaints Agent Authorization form and all party disclosure documents were filed in accordance with the Act and its regulations.

[2] The subject properties comprise two adjoining commercial lots, one improved with an automobile dealership and the other adjoining lot used for vehicle storage and parking. There is a single issue – land value. The same evidence and argument applies to each of the properties and was presented to the CARB once. This order is written under File number 76022 but is applicable to 76022 and 76377. No separate order has been prepared for 76377.

[3] There were no jurisdictional matters to be decided.

Property Description:

[4] The property that is the subject of this assessment complaint is the Crowfoot Dodge automobile dealership (20 Crowfoot Rise NW) together with an adjoining vehicle parking and storage site (42 Crowfoot Rise NW). The dealership property comprises a 3.0 acre lot with a 25,639 square foot dealership building constructed in 1990. The parking/storage lot comprises a 1.09 acre lot.

[5] The dealership property is assessed using a cost approach. The land is valued at \$2,655,710 (\$885,237 per acre or \$20.32 per square foot). The \$1,641,159 building value is added based on its depreciated cost. The parking/storage site is assessed on the basis of market value of the land at \$1,824,700 (\$1,674,037 per acre or \$38.43 per square foot).

Issues:

[6] The Assessment Review Board Complaint forms were filed on March 3 and 4, 2014 by AEC Property Tax Solutions on behalf of W.C. Appleby Investments Inc., the "assessed person." On each form, Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[7] In Section 5 – Reason(s) for Complaint, the Complainant stated numerous grounds for the complaint.

[8] At the hearing, the Complainant pursued the following issue:

- 1) Both of the lots have restrictions on use imposed by a Direct Control Bylaw so the land should receive a -25 percent influence adjustment.

Complainant's Requested Values: **\$3,630,000 for 20 Crowfoot Rise NW**
 \$1,370,000 for 42 Crowfoot Rise NW

Board's Decision:

[9] The CARB reduces each assessment as follows:

- 1) 20 Crowfoot Rise NW: \$3,760,000
- 2) 42 Crowfoot Rise NW: \$1,360,000

Legislative Authority, Requirements and Considerations:

[10] The CARB is established pursuant to Part 11 (Assessment Review Boards), Division 1 (Establishment and Function of Assessment Review Boards) of the Act. CARB decisions are rendered pursuant to Division 2 (Decisions of Assessment Review Boards) of the Act.

[11] Actions of the CARB involve reference to the Interpretation Act and the Act as well as the regulations established under the Act. When legislative interpretation is made by the CARB, references and explanations will be provided in the relevant areas of the board order.

Position of the Parties

Complainant's Position:

[12] The Complainant's disclosure of evidence, marked by the CARB as Exhibit C1 was filed with the CARB administration and the Respondent on March 3 and 4, 2014. A rebuttal document for both complaints was filed with CARB administration on July 28, 2014.

[13] There is no issue with the dealership building valuation or with the base land rate.

[14] The Crowfoot Power Centre development was approved under Direct Control Bylaw 105Z83 in September 1983. In that bylaw, 13 sites were identified and development guidelines and specific uses were prescribed for each site. The subject lots are in Site 13. Under land use, the bylaw reads: "*The land use shall be for automotive sales and rentals, and automotive services only.*" Development Guidelines are: "*The General Rules for Commercial Districts contained in Section 33 of By-Law 2P80 and the Permitted and Discretionary Use Rules of the C-2(12) (General Commercial District) shall apply unless otherwise noted below.*"

[15] Each of the land parcels was valued for the assessments using the C-2 land rate:

- First 10,000 square feet @ \$70.00/square foot
- 10,001-40,000 square feet @ \$35.00/square foot
- Remainder @ \$10.00/square foot

[16] Limiting the subject properties to a single use is a significant restriction on their development potential. The Respondent has made no allowances for this despite the provisions of its own influence adjustments chart that sets out adjustment rates for various factors that can have an influence on market value. One of the factors for adjustment consideration is "Land Use Restrictions" which is applied to properties which, as a result of a caveat, covenant or Direct Control (DC) Bylaw, have restricted development potential that similar properties are not affected by.

[17] Recent market activity near the subject properties indicates the automotive use in this area is becoming less attractive. Two former dealerships (Toyota and Honda) have relocated to a newly developing area in northwest Calgary. One of those dealership properties (Honda), comprising two lots, sold in 2012. One lot that is not restricted in use is being redeveloped with an office building. The other lot, with the dealership building and a restriction on use similar to that on the subjects, has been converted for occupancy by a tire store and an automobile rental outlet.

[18] The sale prices of the Honda properties tend to support the Complainant's claim for a negative land use restriction adjustment.

[19] Other properties in Calgary have received a -25 percent adjustment to their land assessments when, because of a DC bylaw, they are limited to a single use. 14111 Macleod Trail SW has its use governed by a pair of DC bylaws that restrict it to the single use of a retail garden centre. That property received the -25 percent restricted use adjustment. 102 – 64 Avenue NE receives the same -25 percent adjustment for the same reason even though it appears that it is not designated DC.

Respondent's Position:

[20] The Respondent's disclosure of evidence, marked by the CARB as Exhibit R1 was filed with the CARB administration and the Complainant on July 21, 2014.

[21] R1 contains documents that indicate that the Honda dealership sale reported by the Complainant was not a legitimate sale for several reasons.

[22] The Respondent did not specifically address the issues of land influence adjustments or equity.

Board's Reasons for Decision:

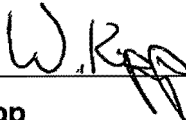
[23] The CARB finds that the restriction of use of the subject lands fits squarely within the definition of "Land Use Restrictions" in the Respondent's influence adjustment chart for land valuation.

[24] This finding was not refuted by the Respondent. The Complainant also provided examples of other properties that did receive the negative adjustment for the same influence. These were not refuted by the Respondent.

[25] In making revisions to the land valuations of the subject lots, the CARB observed that the Respondent's influence adjustments chart contains an entry for "Corner Lot." A +5.0 percent adjustment *"is applied to properties with superior accessibility, in relation to typical properties, as a result of being located on a corner."* The subject dealership lot is located on a corner. The CARB therefore adjusts the base land valuation downwards by 25.0 percent and upwards by 5.0 percent (net downward adjustment of 20.0 percent). The land value of 20 Crowfoot Rise NW

is revised to \$2,124,568. When the \$1,641,159 depreciated cost of the building is added, the final revised assessment is truncated to \$3,760,000. For the adjoining parking/vehicle storage lot at 42 Crowfoot Rise NW, the revised assessment is \$1,360,000. There is no corner adjustment applicable to this property so it receives a 25.0 reduction from the base \$1,824,000 value.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2014.



W. Kipp
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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	OTHER	SPECIALTY	LAND VALUE	ADJUSTMENTS