



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:

***AURA TOWER DEVELOPMENTS LTD.
(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: 201050127

LOCATION ADDRESS: 923-8th Ave SW

FILE NUMBER: 76084

ASSESSMENT: \$4,630,000

This complaint was heard on Tuesday, the 10th day of June, 2014 at the offices 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, City of Calgary
- S. Gill, Assessor, 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. However, prior to the matter being heard, the Complainant requested that the argument and evidence presented as a part of **CARB 75104-2014-P** and **CARB 76083-2014-P** be incorporated into this matter and that these matters all be heard together. This was not objected to by the Respondent. The Board granted the request.

Property Description:

[2] The subject property is a surface parking lot comprising 15,188 sf, or 0.35 acre, located on 8th Ave between 8th St and 9th St SW, immediately adjacent to another slightly larger parking lot, with the same owner. The site is currently zoned for Commercial Light Industrial and Residential.

Issue:

[3] Whether the subject parcel should be assessed at the current land only base rate of \$305/sf, with adjustments totalling \$4,630,000 or an equitable base rate of \$180/sf, totalling \$2,730,000.

Complainant's Requested Value: \$180/sf, with no adjustments or, \$2,730,000

Board's Decision:

[4] The Board confirms that the subject assessment, with a land base rate of \$305/sf, or with adjustments, a total of \$4,630,000 is the correct value for the subject.

Position of the Parties**Complainant's Position:**

[5] The Complainant argued that the subject should be equitably assessed. They note the Respondent's argument was simply that the subject was properly assessed at \$305/sf less adjustments. They argued that because of the subject's proximity to the Metro Ford property, (a mere one and a half blocks away) notwithstanding that the subject and Metro Ford are in different zones, the subject should be assessed at the DT2W rate, based on equity. The subject property sits a half block east of the dividing line between DT2E and DT2W, and is definitely in the DT2E zone.

[6] The Complainant acknowledged that the subject is only slightly closer to the downtown core than the Metro Ford site, and that properties further west have a lower price, partly because they are further from the core. They also acknowledged that the subject is under the same Direct Control bylaw as the Metro Ford site.

[7] The Complainant also admitted under cross examination that their position was not based on land use, but on equity exclusively. The subject is not in the CR20 zone which has yet to be approved, it is however in an area of transition. They complete their argument by stating that the subject property is physically in closer proximity to the \$182/sf property than most of the \$307/sf properties. They say the subject is also closer in size and therefore, has re-development potential.

[8] The Complainant also raised the question of which was the more important factor; being closer to the downtown core, or, the actual market value of the subject. The Complainant finished their argument by stating that the subject should be equitably assessed for a number of reasons including development potential. The Complainant argued the subject should be considered as though it was in DT2W, whereas it is actually in DT2E.

Respondent's Position:

[9] The Respondent argued that the Complainant's argument (or, rather lack of argument) on land use alone is clearly not enough to request an equity argument.

[10] The Respondent presented a Downtown Land ASR Study that encompassed 29 properties which purported to demonstrate a Median Assessment to Sales Ratio (ASR) of 0.99, and an average ASR of 1.03. This certainly showed a median ASR for the 29 properties but did not really advance the Respondent's position as ASR is not in issue here.

[11] The Respondent went on to advocate that its chart of Post Facto Land Sales comparables clearly demonstrated that those sales were all in excess of the assessed value of the subject. But once again, these were Post Facto figures and not directly applicable to the subject as it is now in issue.

[12] In cross-examination, the Respondent suggested that they had assessed the subject equitably, but provided little evidence of that assertion. The Metro Ford property and the subject property are both under the same land use bylaw, although that could change.

[13] The Respondents argued that the land use was not enough to support a reduction in

assessment.

Board's Reasons for Decision:

[14] While the Complainant provided a good argument, and the Board is of the opinion that the subject may compare better with the Metro Ford property than any other, the subject is still in DT2E, not in DT2W and so, the Board must reject the Complainant's equitable argument and confirm the subject assessment as rendered. While the situation may change when the CR20 bylaw is brought into play, CR20 is of no impact at this time.

[15] Accordingly, the subject assessment is herewith confirmed in the amount of \$305/sf, or with adjustments, \$4,630,000.

DATED AT THE CITY OF CALGARY THIS 14 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. 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 Only

Appeal Type	Property Type	Property Sub-type	Issue	Sub-issue
CARB	Vacant Land	Parking Lot	Equitable Assessment	Application of Bylaw