



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:

17th Avenue Framing Ltd (as represented B. Drouin), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. Thompson,
P McKenna,
P Loh,***

***PRESIDING OFFICER
BOARD MEMBER
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:	067204701
LOCATION ADDRESS:	1232 17 Av SW
FILE NUMBER:	76483
ASSESSMENT:	\$1,590,000

This complaint was heard on 7 day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- B. Drouin *Owner*

Appeared on behalf of the Respondent:

- H. Yau *Assessor, City of Calgary*
- N. Irving *Lawyer, City of Calgary*

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

[1] The Complainant requested an adjournment of this hearing to allow time to pursue an originating notice before the Court of Queen's Bench, with respect to the inability to obtain additional information in a timely manner. After discussion the Complainant decided to proceed with the hearing. The Respondent wanted it on record that the City has gone to extra lengths to accommodate the Complainant's request, the time constraints were not a result of any of the City's actions as the Complainant was unwilling to fill out the request form to be granted access to more properties on the website.

[2] At the time the rebuttal document was entered into evidence the Respondent requested that tabs three to eight be removed as they introduced new evidence. The Board reviewed the rebuttal evidence and determined that tab 3 was legitimately rebuttal to the City's contention that the property had no restriction on development. Tabs four to eight were deemed new evidence and deemed inadmissible.

[3] The Board continued with the merits of the complaint.

Property Description:

[4] The subject property is located at 1232 17 Av SW in the Beltline area (BL6 sub market area). The property is a 4,280 square foot (sf) Class B retail building, constructed in 1964 with a lot size of 5,611 sf, with a Commercial-Corridor 1 Land Use Designation. There are 12 parking stalls at the rear of the property.

[5] The property is assessed as land only, using the sales comparison method of valuation. The assessed land rate for BL6 is \$285.00 per square foot (psf). The subject property has no influences that impact its assessed value.

Issues:

[6] The value of the subject property would better reflect market if it were based on the October 2012 sale of the property or barring that, the assessed value should have the demolition value removed and a -15% shape factor applied.

Complainant's Requested Value: \$1,096,500

Board's Decision:

[7] The assessment is reduced to \$1,350,000

Legislative Authority, Requirements and Considerations:

[8] By the Act, Section 460.1(2), subject to Section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in Section 460(5) that is shown on an assessment notice for property, other than property described in Subsection (1)(a).

[9] Case Law: Court of Queens Bench of Alberta, Citation 697604 Alberta Ltd. v. Calgary (City of, 2005 ABQB512).

Position of the Parties

Complainant's Position:

Issue 1:

[10] The Complainant contends that the City did not take all factors into consideration when valuing this property [C1, tab 2]. The Complainant stated that the property is irregular in shape and should receive a -15% shape factor. With only a 25 foot frontage on 17th Av SW, with 50 feet to the rear of the property development would be restricted. A survey of the subject property was provided [C1, tab 11]. The Complainant provided a comparable at 505 11 Av SW, including a block face map, to show reductions for shape are given to properties similar to the subject [C1, tab 6].

[11] CARB decisions involving shape adjustments were included [C1, tab 5, 9, 10].

Issue 2:

[12] The Complainant stated if the property was to be valued as land only, the value of demolishing and removing the building should be subtracted from the assessment. If this property were to be sold as vacant land this expense would be incurred [C1, tab 3].

[13] Certified Insurance documents were provided to show the building was insured for \$818,000 [C1, tab 12]. The Complainant testified that approximately \$300,000 of this was for demolition and removal and remediation of the building. The Complainant contends that this is the value that should be removed from the assessed value in order to represent vacant land. The calculation for the fair and accurate value of this property would then be:

Assessment	\$1,590,000
Removal of Improvement	-\$300,000
Land only Value	\$1,290,000
Less 15% shape influence	-\$193,500

Land Value

\$1,096,500

[14] A CARB decision involving demolition value was included [C1, tab 8].

Issue 3

[15] The Complainant stated that the Assessment Review Board and Queens Bench rulings have both acknowledge that the sale value of a property is the best indicator of value. [C1, tab 4]. The Complainant leased this property since 1999 and subsequently purchased it in October of 2012 for \$1,350,000. The Complainant also provided an appraisal of the property, dated May, 2012, with a value conclusion of 1,325,000 [C1, tab 14].

[16] The Complainant provided a CARB decision [C1, tab 7].

Respondent's Position:

[17] The Respondent stated that the subject property is in a good location and has 25 feet of 17th Avenue exposure. This property is valued as vacant land for assessment purposes as the site coverage of this property is so low the value produced from the income approach would be far less than the land value. Site coverage for this property is only 29%.

[18] The Respondent spoke to the shape of the subject property and stated that the Land Use Designation is Commercial-Corridor 1 which has no restrictions on development. The Respondent stated that the City does not make adjustment for shape unless there are restrictions on the property or potential loss on any redevelopment. The subject parcel has nothing on record to show this rule would apply and the Complainant has not provided any evidence to show this. The Respondent also noted that the Complainants own Appraisal does not refer to any issues with redevelopment based on the shape of the property.

[19] As to the demolition value of the building on this property, the Respondent contends that the Complainant has provided no evidence to support the requested \$300,000 cost to remove the current structure.

[20] The Respondent stated it has the subject property sale with a July of 2012 date. The Complainant responded that the original offer was \$1,250,000 in July, with the requirement of a phase 1 environmental assessment study. The vendor then indicated that there was another offer for \$1,350,000 and the Complainant matched that offer in October of 2012.

[21] The Respondent provided the City's 2014 BL6 Land Rate Study along with maps of the sales used and the Beltline sub markets [R1, 11-14]. As no sales occurred in BL6, sales from BL 3 and BL4 were used to develop the land base rate of \$285.00 psf. The Respondent noted that the sales in the past 18 months are producing a median of \$325 psf, well above the 2014 base rate.

Complainant Rebuttal

[22] Based on decision of the Board in Preliminary issues, Tabs 1-3 and 9-17 are entered as rebuttal evidence.

[23] The Complainant presented a letter dated June 2014 from Liv Urban Developments regarding site development of the subject property. Daniel Bowman, the CEO of Liv Urban

Developments wrote: *In my opinion if the site currently satisfies requirements of your tenants, then it is being used to the best possible way right now [C2, tab 3].*

[24] Mr. Bowman went on to outline the reasons he felt the site was significantly limited in value. Those being:

- 1) For redevelopment the lot would have issues with shape, (minimum exposure to 17 Avenue and more expense to build an L shaped building),
- 2) lot is small, parking is currently adequate but may not meet development requirement,
- 3) possible set back requirements

[25] The Complainant provided nine Beltline land sale comparisons and relevant assessment and sale information for the Board's consideration [C2, tab 9-17].

Board's Reasons for Decision:

[26] The Board reviewed the evidence provided by both parties and will limit its comments to the relevant facts pertaining to this case.

[27] The Board gave particular consideration to the Sale of this property and the supporting Appraisal provided by the Complainant. The Board does recognise that for assessment purposes it is legislated to produce a market value using mass appraisal and that the best test or indication of Market Value is a typical market sale.

[28] Based on the guidance from the Courts, in particular the Court of Queen's Bench of Alberta case 697604 Alberta Ltd. v. Calgary (City of), 2005 ABQB512 memorandum of decision Honourable Madam Justice L. D. Acton " ..agree with the following comments from Re Regional Assessment Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al (1984), 47 O.R. (2d) 766 (ont. H.C.J. Div. Ct.) at pg 767:

It seems to me to be worth remembering that where the Assessment Act, R.S.O. 1980, c.31 requires the determination of what a property might be expected to realize if sold on the open market by a willing seller to a willing buyer (s. 1892)), the price paid in a recent free sale of the property itself, where in the case there are neither changes in the market nor to the property in the interval, must be very powerful evidence indeed as to what the market value of the property is. It is for that reason that a recent free sale of the subject property is generally accepted as the best means of establishing the market value of that property.... ...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic method of establishing market value. "

[29] As to the Complainants request for a reduction for the shape of the property and demolition costs, these were considered by the Board and given little weight. With regard to the demolition value, no conclusive evidence was presented to substantiate a demolition amount, nor was it clear that such an amount removed from the property value produced a better market value. With regards to the shape adjustment, the Board reviewed the narrative in the Appraisal submitted by the Complainant [tab 14] and is confident that this was accounted for in determining the fair market value of the property. This was substantiated by statements in the appraisal such as:

- 1) On page 11, ...*subject has good commercial/retail potential given its prominent exposure along 17th Avenue....nothing detrimental noticed in the immediate vicinity of the subject that could affect is developability and marketability.*

- 2) *And on page 16, ...the site configuration may pose some redevelopment difficulties, however any redevelopment is likely to occur as part of a land assembly. No significant detrimental factors are noted which could be considered to detract from the general appeal of this site.*

[30] The Board put more weight on this document than the letter from Liv Urban developer.

[31] The Board notes that while it is not bound by previous Board Orders, it did consider those that were submitted (for general principles); this decision is based on the evidence before this Board.

[32] The subject property sold in an arm's length transaction for \$1,350,000, and as such this is a reasonable representation of the property's Market Value. This sale occurred approximately eight months prior to the valuation date however the Respondent indicated that there was very little increase in market in the past two years in this area (and subsequently had not time adjusted any of the sales in the analysis of the typical rates). The Board finds sufficient evidence and direction to reduce the assessment to the property's sale price of \$1,350,000.

DATED AT THE CITY OF CALGARY THIS 5th DAY OF September 2014.



K. Thompson

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.*

Property Type	Property Sub-Type	Issue	Sub issue
other	Land rates	Sales Comparison	