

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:

***Genco (Tuscany) Ltd. (as represented by Avison Young Property Tax Services),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
R. Deschaine, BOARD MEMBER
B. Jerchel, 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:	201920287
LOCATION ADDRESS:	5029 Nose Hill DR NW
FILE NUMBER:	76633
ASSESSMENT:	\$1,470,000

This complaint was heard on 25th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *C. Hartley – Avison Young Property Tax Services*
- *B. Peacock – Avison Young Property Tax Services*

Appeared on behalf of the Respondent:

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

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is a .74 acre (AC) commercial land parcel located adjacent to the Home Depot store in far south Tuscany in NW Calgary. The property was a part of the Home Depot site but was subdivided and sold to the current owner Genco (Tuscany) Ltd. on October 16, 2013 in an arms-length transaction. The subject is zoned DC (Bylaw 88z2004) and currently a 3-unit retail strip mall is being erected on the site. However, as of July 1, 2013 the subject was a vacant land parcel.

Issue:

[4] What is the subject's correct assessed value given that it transacted in a valid arms-length market sale in October 2013?

Complainant's Requested Value:

[5] The Complainant requests the assessment be reduced to the sale price of \$815,000.

Board's Decision:

[6] The Board reduced the assessment to \$840,000 pursuant to the February 2013 appraised value.

Legislative Authority, Requirements and Considerations:

[7] The Complainant briefly referenced "*Mountain View (County) v. Alberta (Municipal Government Board [2000] A. J. No. 1042, 2000 ABQB 594, Action No. 9901-17438*".

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

[8] The Complainant clarified that the sale of the subject finalized on October 16, 2013 for \$815,703 although it had been negotiated since late in 2011. He provided a copy of the duly executed "Offer to Purchase" agreement between the owner and vendor and noted it was dated September 2, 2011 and valued at \$819,779.48. The Complainant noted that the deal finally transacted at Land Titles on October 16, 2013 for \$815,703 as noted above. He provided copies of the Land Transfer documents.

[9] The Complainant provided RealNet information sheets regarding three other vacant land parcels of similar size and transaction value as the subject, all at various locations around the City (e.g. Seton; Sage Hill; and Royal Oak). He noted the per acre values of these transactions, and argued that the sale value of the subject falls within the range of values represented by the three property comparables.

[10] The Complainant provided a copy of a formal appraisal document prepared by Altus Group Limited for the subject. The appraisal valued the subject as of February 1, 2013 at \$840,000. The Complainant argued that this document supports the purchase price, and although one might consider this to be a *Post Facto* sale, it is nevertheless the best evidence of its value for assessment purposes in this assessment cycle.

[11] The Complainant argued that the legal precedent known as "*Mountain View (County) v. Alberta (Municipal Government Board [2000] A. J. No. 1042, 2000 ABQB 594, Action No. 9901-17438*" establishes, among other things, that the best indicator of market value is a market sale. He argued that not only has he provided an "arms length" market sale, but also one which is backed up and supported by a professional appraisal from a reputable firm.

[12] The Complainant argued that while the Respondent will suggest that the zoning bylaw applicable to the site may have "restricted" certain developments on it, thereby negatively influencing its value, he noted that this is the very nature of zoning bylaws, and prudent investors will have investigated this issue before buying. He provided copies of selected sections of the City's Land Use Bylaw 88z2003-0128. The Complainant noted that he was personally familiar with the owner, and was confident the owner purchased the subject precisely because the current zoning permitted the development he contemplated. Therefore, he rejected the Respondent's arguments on this issue.

[13] The Complainant requested that the assessment be reduced to \$815,000.

Respondent's Position:

[14] The Respondent provided a matrix containing the City's 2014 assessment land rates for Commercial lands. He noted the rate applied to the subject was \$70 per SF for the first 10,000 SF and \$35 per SF for the next 10,001 – 40,000 SF; and \$10 per SF for the remainder. He also noted that certain adjustments would be made to the assessment parameters of properties displaying an impact to its value as a result of factors such as slope; shape, servicing availability, corner lot; etc. He provided a matrix outlining these potential adjustments.

[15] The Respondent provided a detailed chart containing 20 "Commercial Land Sales" that transacted across Calgary from 2011 to 2013 inclusive, and which were used to establish the aforementioned commercial land rates for assessment purposes. He identified four properties for which he calculated the Assessment to Sale Ratios (ASR's), and determined that the median ASR was 0.990837; the Average ASR was 1.189506; and the Weighted Mean was 0.725368. He suggested that because the median ASR value was .990837, the methodology and comparable properties used to assess the subject under Mass Appraisal was reasonably sound.

[16] The Respondent also provided the land transfer documents for the subject, and noted that the City would not have used this sale in its analysis because it was *Post Facto* July 1, 2013, having been registered in Land Titles in October 2013.

[17] The Respondent also suggested that the subject may have transacted at a lesser value than he perceived the market to be in the general locale of the subject because the current zoning on the site appears to be "restrictive". He provided copies of relevant sections of the City's Land Use Bylaw 88z2003-0128 in support of this argument.

Board's Reasons for Decision:

[18] The Board finds that the best indicator of market value for the subject is the formal professional appraisal independently prepared by Altus Group, which demonstrated an effective date of February 1, 2013 for an indicated market value of \$840,000. The formal appraisal was provided to the owners on February 4, 2013, only four months prior to the July 1, 2013 valuation day for assessment purposes

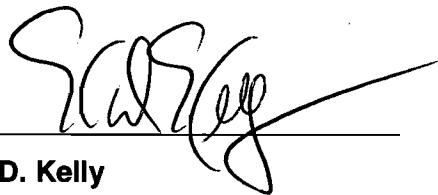
[19] The Board finds that the sale of the subject, while having been ultimately registered at Alberta Land Titles in October 2013 is, while slightly *Post Facto* July 1, 2013, also a good indication of value for the subject for assessment purposes.

[20] The Board finds, through the Complainant's evidence and argument, that the sale of the subject had been ongoing between owner and purchaser since September of 2011 and continued until and after the formal appraisal by Altus Group was provided to the current owner February 4, 2013. This evidence and argument by the Complainant indicates to the Board that the negotiations to purchase the subject at or near the appraised value, occurred, and was finalized in advance of the July 1, 2013 valuation date for assessment purposes.

[21] The Board finds that the Respondent provided no market or other evidence to confirm his suggestion that the sale price of the subject may have been negatively influenced by the existing/current zoning on the subject.

[22] The Board finds that the formal appraised value for the subject at \$840,000 represents the fair and equitable market value for the subject, and therefore the Board opts to reduce the assessment to this value.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF July 2014



K. D. Kelly

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	commercial	Vacant land	market value	Sale of subject