

## Calgary Assessment Review Board

### DECISION WITH REASONS

In the matter of the complaint against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Stoney Industrial Management Ltd. (as represented by Altus Group Ltd.), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***B. Horrocks, PRESIDING OFFICER***  
***J. Massey, BOARD MEMBER***  
***R. Deschaine, BOARD MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	FILE NUMBER	ASSESSMENT	COMPLAINANT'S REQUESTED VALUE
201816170	11 FREEPORT CR NE	72902	\$2,570,000	\$1,927,500
201816188	27 FREEPORT CR NE	72905	\$2,220,000	\$1,665,000
201816196	41 FREEPORT CR NE	72908	\$2,000,000	\$1,500,000
201816204	57 FREEPORT CR NE	72911	\$2,250,000	\$1,687,500
201816212	71 FREEPORT CR NE	72913	\$2,660,000	\$1,995,000
201816220	87 FREEPORT CR NE	72915	\$2,960,000	\$2,220,000
201816238	101 FREEPORT CR NE	72917	\$2,570,000	\$1,927,500
201816246	117 FREEPORT CR NE	72918	\$1,800,000	\$1,350,000
201816253	131 FREEPORT CR NE	72921	\$1,710,000	\$1,282,500
201816261	147 FREEPORT CR NE	72923	\$1,740,000	\$1,305,000

This complaint was heard on the 21st day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3

Appeared on behalf of the Complainant:

- D. Mewha (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- K. Buckry (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] Both parties have visited the site.
- [3] The parties have not discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.

**Property Description:**

[5] The subject properties are vacant land parcels located in the Stoney 2 Industrial community in NE Calgary. The parcels are all zoned I-B and range in size from 1.80 to 3.78 acres. The properties are assessed using the Sales Comparison approach to value.

**Issues:**

[6] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the assessment of the subject properties are in excess of their market value, for assessment purposes".

**Board's Decision:**

[7] The 2013 assessments are reduced as follows:

ROLL NUMBER	LOCATION ADDRESS	FILE NUMBER	REVISED ASSESSMENT
201816170	11 FREEPORT CR NE	72902	\$1,930,000
201816188	27 FREEPORT CR NE	72905	\$1,660,000
201816196	41 FREEPORT CR NE	72908	\$1,500,000
201816204	57 FREEPORT CR NE	72911	\$1,690,000
201816212	71 FREEPORT CR NE	72913	\$2,000,000
201816220	87 FREEPORT CR NE	72915	\$2,220,000
201816238	101 FREEPORT CR NE	72917	\$1,930,000
201816246	117 FREEPORT CR NE	72918	\$1,350,000
201816253	131 FREEPORT CR NE	72921	\$1,280,000
201816261	147 FREEPORT CR NE	72923	\$1,310,000

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, 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).

MGA requires that:

- 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,
- (a) apply the valuation and other standards set out in the regulations, and
  - (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

- 2 An assessment of property based on market value
- (a) must be prepared using mass appraisal,
  - (b) must be an estimate of the value of the fee simple estate in the property, and
  - (c) must reflect typical market conditions for properties similar to that property.
- 4(1) The valuation standard for a parcel of land is
- (a) market value, or
  - (b) if the parcel is used for farming operations, agricultural use value.

**Board's Decision in Respect of Each Matter or Issue:**

**Issue:** What is the market value, for assessment purposes?

**Complainant's Position:**

[8] The Complainant's Disclosure is labelled C-1.

[9] The Complainant submitted that as of December 31, 2012, the condition date for 2013 assessments, the subject properties were either "Partially Serviced" or had "Limited Access", and as a result, the assessments should be adjusted by -25%.

[10] The Complainant, at pages 29 through 32, provided pictures of the subject properties that were taken September 2, 2012. Stripping and rough grading of the subject properties appears to have been completed. Access to the subject properties, via the extension of 100 Avenue, is blocked by jersey barriers.

[11] The Complainant, at pages 33 through 36, provided pictures of the subject properties that were taken in May 2013. The pictures show that sidewalks, curb and gutter, shallow services, street lights and some paving were completed.

[12] The Complainant, at page 38, provided a table titled, 2013 Non-Residential Land Rates, noting that NE lands, zoned I-B, are assessed at the rate of \$950,000 per acre for the first 2 acres and \$600,000 per acre for the remainder.

[13] The Complainant, at page 39, provided a table titled 2013 Non-Residential Industrial Land Influence Adjustments, noting that a -25% adjustment is applied for "Limited Access" (properties which cannot be easily accessed in such a way as to inhibit development) and -25% adjustment is applied for "Partial Services" (properties which have some but not all municipal servicing (sewer, water and storm) located adjacent to the parcel.)

[14] The Complainant, at pages 47, 52 and 56, provided the Construction Completion Certificates for Watermains and Hydrants, Sanitary Sewers and Storm Mains respectively. The Certificates are all dated February 13, 2013.

[15] The Complainant, at page 59, provided a Commercial Edge Report. The report contains details of a sale of 4 land parcels, immediately adjacent to the subject properties, that sold on September 20, 2012 for \$16,429,614.00 ( \$567,517.00 per acre). The Complainant, at page 61, calculated the assessment for the above sale to be \$20,176,000.00 using the City land rates, to demonstrate that the land rates used by the City for the assessment, are in excess of market value by 23%.

[16] The Complainant, at pages 81 through 91, provided a number of Property Assessment Summary Reports, to demonstrate the application of a -25% adjustment for "Partial Services."

[17] The Complainant, at pages 91 through 103, provided two examples of properties with access from the end of a cul de sac, where the properties were described as having Limited/Restricted access, but no market adjustment for "Limited Access" had been made to the assessments.

[18] The Complainant, at page 105, provided an excerpt from an Assessment Brief prepared by the City of Calgary which states "Limited Access is typically applied where there is some barrier preventing the owner of the parcel to have access to his property from a public road. Quite often this is the case where no roads are running adjacent or parallel to the edge of the property line and the owner actually has to drive over a neighbor's property to get access to his own. The true test is whether the owner could drive an industrial vehicle (1 ton or larger) and obtain access via public roadway to his or her property."

[19] The Complainant, at page 106, provided an example of a property that has "temporary" access via the end of two cul de sacs, and a -25% adjustment has been applied to the assessment for "Limited Access."

[20] The Complainant, at page 134, provided a table which contains details of two sales of I-G zoned lands in the NE. The sale dates were July 17, 2012 and September 12, 2012. The Complainant submitted that although the sales are post facto, they indicate that the market value, for fully serviced lands in the general area, is in the range of \$650,000 to \$670,000 per acre.

[21] The Complainant concluded that the installation of services was not completed until after December 31, 2012, the condition date, and therefore the assessments should receive a -25% adjustment for "Partial Services".

**Respondent's Position:**

[22] The Respondent's Disclosure is labelled R-1.

[23] The Respondent submitted that the subject properties were inspected nearer to the December 31, 2012 condition date, and that the properties were serviced and completely accessible and, as a result, no influence adjustments to the assessments are warranted.

[24] The Respondent, at pages 20 through 23, provided photos taken on December 21, 2012. The Respondent submitted that, at that time, it was possible to drive all around Freeport Crescent, curbs were in and the road was gravelled. In addition, 100 Avenue NE was paved to 15 Street NE and the jersey barrier that had been at the end of 100 Avenue NE was removed. The Respondent submitted that the subject properties were serviced and there were no access restrictions.

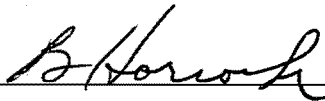
[25] The Respondent, at page 26, provided a table that contains details of the sale of 5 of the subject properties, which occurred in June of 2013 (post facto), noting the subject properties sold for more than their assessed value.

**Board's Reasons for Decision:**

[26] The Board, noting the "Construction Completion Certificates" were not issued until February 13, 2013, finds the subject properties were partially serviced as of December 31, 2012. As a result, the assessments should receive a -25% influence adjustment for "Partial Services".

[27] The Board finds there were no restrictions to limit access to the subject properties as of December 31, 2012, and as a result the assessments should not be adjusted for "Limited Access".

DATED AT THE CITY OF CALGARY THIS 21<sup>st</sup> DAY OF November 2013.



**B. Horrocks**

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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

<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
Other	Vacant Land	Sales Comparison Approach	Influence Adjustments