

**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:**

***310086 Alberta Ltd., COMPLAINANT***

**and**

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

**before:**

***C. J. Griffin, PRESIDING OFFICER***

***I. Fraser, BOARD MEMBER***

***T. Ussleman, BOARD MEMBER***

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

**ROLL NUMBER(S):** 068173418 & 068173426  
**LOCATION ADDRESS:** 311 & 307 14<sup>th</sup> Avenue SW  
**FILE NUMBER:** 73821 (also incorporating file 73822)  
**ASSESSMENT:** \$1,460,000. & \$1,150,000 respectively

This complaint was heard on the 27<sup>th</sup> day of November, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 1.

Appeared on behalf of the Complainant:

- R. Jones - property owner

Appeared on behalf of the Respondent:

- L. Wong - assessor

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

This Complaint deals with two parcels of land which, combined, form a parking lot. In that the issue of the Complaint is identical for both land parcels, as is the evidence and argument, it was agreed that both properties would be dealt with in this single Hearing. Accordingly all of the evidence and argument to be presented by both parties will also be applied to the adjacent parcel which is also under Complaint.

**Property Description:**

[1] The subject property consists of two adjoining vacant land parcels which, combined, are utilized as 30 vehicle parking stalls.

**Issue(s):**

[2] The issue arises from an Amended 2013 Assessment whereby the assessed value of the two parcels has been increased from a nominal \$1,000. each to the amended \$1,460,000 (roll # 068173418) and \$1,150,000 (roll # 068173426) for a combined total of \$2,610,000. The Complainant maintains that the amended assessments exceed the market value of the land given the restrictions placed upon the land by way of a Caveat in favour of The City of Calgary.

**Current Amended Assessment(s):**

[3] \$1,460,000. (roll # 068173418) & \$1,150,000. (roll # 068173426) respectively

**Complainant's Requested Value(s):**

[4] \$1,000. (roll # 068173418) & \$1,000. (roll # 068173426) respectively

**Board's Decision:**

[5] The assessments are reduced to: **\$1,000. (roll # 068173418) &  
\$1,000. (roll # 068173426) respectively**

**Position of the Parties:**

**Complainant's Position:**

[6] The Complainant explained to the CARB that the assessed values of the subject properties have successfully been challenged by the owners a number of times over the years dating back to 1994. The issue stems from the fact that the subject land parcels were acquired to satisfy the parking requirements of the Land

Use By-law under the DC, Direct Control, Land Use Designation of the subject parcels together with the adjoining parcel upon which is constructed a building of 'Historical Interest' which was constructed in 1911. As a result of a restoration and renovation of this building and it's conversion to condominium status, the City of Calgary required 30 parking stalls be provided, hence the acquisition of the subject land parcels. The City of Calgary registered a Caveat against the subject land parcels (Exhibit C-1 pgs. 3 – 5) through which "*It forbids the registration of any person as owner or transferee of, or of any instrument affecting the said estate or interest unless the instrument or certificate of title, as the case may be, is expressed to be subject to its claim*". The Complainant maintains, as has been successfully argued in the past, that the value of the subject lands has been captured through the assessment of the 6 adjacent condominium units. Based upon the foregoing the Complainant requests that the CARB return the assessment of the subject lands to the pre-amended values of \$1,000. each.

#### **Respondent's Position:**

[7] The Respondent contends that value of the subject parking lot has not been captured in the assessment of the individual condominium units claiming that those units were assessed net of the value of a parking stall. The Respondent provided (Exhibit R-1 pg. 13) a copy of the *2012 Residential Condominium Parking Assessment Explanation* which states "*For assessment purposes the City of Calgary ("The City") first determines the approximate value of a typical parking stall within each market area. The City then determines what the market value of a specific "condo unit" (the combination of a "living unit" and "parking unit(s)") would likely be as of July 1, 2012. In order to comply with the Municipal Government Act, The City allocates the estimated market value of the titled parking unit to that unit and the remainder of the total value to the living unit. The total assessment of the "condo unit" remains the same, but the components are assessed at their individual estimated market value.*" The explanation then goes on to say: "*Assessment values for parking units in residential condominiums have been determined by analyzing sales of parking units within each market area. In terms of residential condominium parking stalls, there are three market areas: downtown (Core), inner city and the suburbs.*" The Respondent then provides an example calculation (Exhibit R-1 pg. 14) of what is captioned as "*Example Calculation on Non-Residential Condos*" which according to the supporting documentation (Exhibit R-1 pgs. 15 – 19) relates to a property located at #511 888 – 4<sup>th</sup> Avenue SW in the Downtown Commercial Core. This is followed by a "*Property Assessment Public Report*" (Exhibit R-1 pg. 20) indicating the assessed value of unit 226V at 888 – 4<sup>th</sup> Avenue SW to be \$35,000. Based upon this information the Respondent requests the CARB to confirm the Amended assessed values of the subject properties.

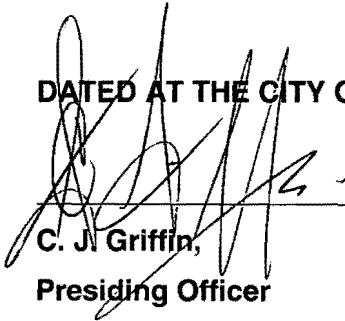
#### **Board's Decision Reasons:**

[8] The CARB recognises that the initial Onus lies with the Complainant to prove that they have a valid complaint relating to the assessed value of their property and in this case the CARB finds that the Complainant has indeed met this Onus. Once this initial Onus has been met by the Complainant the Onus then switches to the Respondent to defend the assessed value(s) by providing to the Board explanation and evidence which provides such support. In this case the CARB notes a paucity of germane data provided by the Respondent to support their amended assessed values. While the Respondent did provide the *2012 Residential Condominium Parking Assessment Explanation* in their brief, there is no information provided which pertains to approximate value of a typical parking stall in the **subject** market area as the aforementioned explanation outlines. The Respondent did provide some data relating to both a condominium unit and a parking stall but this information pertains to a property located within the Downtown Core area which the Board does not consider comparable to the subject location. Additionally, the aforementioned parking stall appears to be of the heated, underground variety which is not comparable to the subject surface, unheated parking stall(s). Additionally, the Respondent did not provide the CARB with any information pertaining to the assessed value

of the condominium units associated with the parking stalls in question so the Board is unable to determine if the value of the parking stalls has or has not been captured in the value of the condominium.

[9] The CARB is further dismayed by the Respondent's complete lack of information of any type relating to the land value assigned by the assessor to the subject property. It appears to the CARB that, in estimating the Amended assessed values of the subject property, the Respondent has completely ignored the restrictions imposed upon the subject lands, by way of a registered Caveat in favour of the **City of Calgary**. The CARB understands the frustration of the Complainant and questions why this matter must be argued by the Complainant year after year.

DATED AT THE CITY OF CALGARY THIS 12<sup>th</sup> DAY OF December 2013.

  
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C. J. Griffin,  
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. C2      | Complainant Rebuttal   |
| 3. 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 MGB Administrative Use Only**

|                             |                                 |                     |                                  |
|-----------------------------|---------------------------------|---------------------|----------------------------------|
| Municipality: Calgary       | Decision No. 73821/P-2013       | Roll No:            | <b>068173418 &amp; 068173426</b> |
| <b><u>Property Type</u></b> | <b><u>Property Sub-Type</u></b> | <b><u>Issue</u></b> | <b><u>Sub-Issue</u></b>          |
| Parking Stall               | Beltline Condominium            | M.V.                | Land Use Restrictions            |