

**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:

Hanson Holdings Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, Mr. J. Fleming
Board Member 1, Ms. S. Rourke
Board Member 2, Mr. J. Rankin***

This is a complaint to the Calgary Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	123191108
LOCATION ADDRESS:	8900 Macleod TR SE
FILE NUMBER:	65324
ASSESSMENT:	\$10,590,000

This complaint was heard on 23rd day of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *Mr. H. Hanson for the Complainant*

Appeared on behalf of the Respondent:

- *Mr. E. D'Altorio, Ms. V. Lavalley, for the Respondent*

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

There were no preliminary procedural or jurisdictional issues.

There was no objection to the composition of the panel.

Property Description:

The property is a 3.962 acre site improved with 3 buildings comprising 12,620 square feet (sq. ft.) for 2 of the buildings, while the 3rd building is actually a land lease and developed with a 3,391 sq. ft. building (Wendy's Restaurant). The property was developed beginning in 1983, with one of the buildings having been developed circa 2000. The property is generally flat at the front (west) of the property, but slopes down at the rear (east) end of the property which has access to Bonaventure Dr. The property only has direct Macleod Trail access from the south because Macleod is a divided road, however there is access half a block south of the site, and easy access from Bonaventure Dr. The property has a 100 foot right of way for a high pressure gas line (running east to west on the north side of the property) which cannot be developed but can, and is used as a paved parking lot. Sometime in the past, the site was severed from a small parcel improved with a (pre-existing) one-storey building on the south west corner of the property. The property has a land use designation C-COR3 f1.75h37 and is valued on the sales comparison basis. The property has a Traffic Main influence which does not affect the value.

Issues:

The Complaint form identifies concern with the influences impacting the property and the capitalization rate (cap rate). At the hearing, the Complainant identified the following issues:

1. Does the assessment adequately recognize the influences on the site as noted below?
 - a. Does the assessment adequately recognize the value impairment caused by the high pressure pipeline easement on the property?
 - b. Is there a value impairment caused by the steep slope at the Bonaventure Drive access drive way?

Complainant's Requested Value:

\$5,500,000

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

Issue 1 a.: The high pressure line easement does cause impairment to the value of the site, and accordingly the Complaint is allowed in part, and the assessment is reduced to \$9,000,000.

Issue 1 b.: There is no value impairment caused by the slope in the access driveway to Bonaventure Dr.

Board's Decision:

The Complainant argued that their property was not assessed equitably when compared to neighbouring properties citing the neighbouring hotel which had an assessment only about 20% more despite being significantly more intensively developed and with a similar land area. They also highlighted a building across Macleod Tr. which has significantly more development than their site, yet was assessed at \$7,110,000, a full \$3,000,000 less than the subject. They also noted the same issue with the comparative assessment of the land across the street on Bonaventure Dr. (Ex. C1, pg. Hilites, 2nd page of unnumbered submission).

The Complainant indicated that they could not understand the reason that the assessment almost doubled year over year, and suggested problems getting sufficient information from the City (they indicated they had been calling for information on Comparables since Feb. 2, 2012 without success). It should be noted however that the City did provide assessment comparables in their disclosure. The Complainant provided information on rents and suggested capitalization rates, but they did not provide a "suggested" income approach to value.

In discussing the impact of the high pressure easement on the value, the Complainant noted that the development flexibility of the site was severely limited in their opinion, and there would likely be a necessity to include expensive underground parking to meet the parking requirement on redevelopment. There was no evidence of this provided.

In their rebuttal, the Complainant provided a letter of opinion from Atkinson Appraisal Consultants Ltd. who analysed the City's Equity Comparables (Ex. C2). In their analysis (Ex. C2, pg. 7), they provided their suggested value for the subject as \$7,860,000 as a result of adjusting the City's Equity Comparables to the subject. This is the revised assessment that the Complainant is requesting.

The Respondent advised that the subject was valued on the sales comparison approach (land value only), because that calculation yielded a higher assessment. They indicated that valuing properties based on the higher of the Income Approach or the Sales Comparison (land only) approach ensures that equitable assessments among similar properties is maintained. As support for that approach, the Respondent cited 3 ARB decisions (Ex. R1, pg. 39).

They explained that their sales evidence (which was not provided) showed that land values along Macleod Tr. had increased from the previous year from \$60.00 to \$100.00 per sq. ft., and this is probably what caused the significant increase in value in the subject. They suggested that the subject had probably been valued in the past on the Income Approach, but the significant increase in the value of the land this year, had tipped the scale for the subject where the land value was greater than the income value (they could not be sure because they had not included any reference to the previous year's assessment). In any event, they noted (with support from Ex. R1, pg. 37) that a significant increase in assessment from year to year is insufficient to change the assessment.

They also noted though that the impact of the value increase had been somewhat softened, because the City evidence showed a stratification of the land values in 2012. They advised that their analysis had shown the values as set out in the following table:

First 20,000 sq. ft.	\$100 per sq. ft
Next 135,000 sq.ft.	\$ 60 per sq. ft
Remainder	\$ 28 per sq. ft

They demonstrated that the high pressure line went through a variety of neighbouring sites, and none of these sites received any reduction in assessment (Ex. R1, pgs. 16 & 17). They also noted that several of the sites that the complainant had noted were valued on the income approach, and thus not comparable (Ex. R1, pg 12). They noted that these properties were assessed on the income basis because their "land only" value was less than their income approach value and that this was consistent (but the opposite) with the reasoning applied to the subject.

They further noted that their sales evidence showed that all the land on Macleod Trail was valued at the same rate and on the same basis as noted above. They cautioned against a simple division of the assessed value of the Comparables by the size of the site, because this did not recognize the stratification of values based on size.

The CARB considered all of the evidence and argument. The CARB notes that the City may value a property on whatever recognized basis that they feel will produce the best evidence of value. In this case, the City chose the "land only" sales comparison basis. While the Complainant discussed the Income Approach in their evidence, they did not provide an estimate of value based on the income approach and in fact their "revised" requested value was based on land value. Accordingly, the CARB concludes that the land only value has been agreed by the parties to yield the best evidence of value.

In determining whether the pipeline had an impact on value, the CARB considered the relative impact of the pipeline on the comparable sites provided by the Respondent. As was noted by the Appraiser, the pipeline easement impacts \pm 32% of the subject site. None of the other comparables or neighbouring properties (with the exception of the office building across the street which is a fully developed site) is affected anywhere close to this extent by an easement. For this reason, and because of the arguments that the site development area is compromised by the location of the easement, the CARB concludes that the subject should receive recognition for diminished useability of the site. In addition, the CARB concludes, in its experience, a knowledgeable purchaser confronted with two identical sites one with an easement affecting 32% of the site, would be willing to pay more for the unencumbered site.

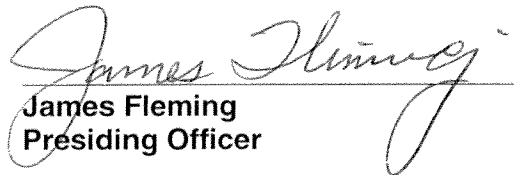
In establishing a quantum for this item, the Board notes that the only discussion of an amount is contained in the evidence from the Appraiser who recommends a 15% reduction (Ex. C2 Appraisers pg 7). Although there is no support for this number, the CARB finds that it is reasonable in comparison with other site impairment credits (-25% for topography for instance) calculated by the City.

In so far as the value of the land, because there is no support for the figures used by the Appraiser in performing adjustments (not to mention that the methodology of adjusting "assessments" as opposed to sales has little support in appraisal/assessment methodology), the CARB accepts the valuation stratification adopted by the City. The CARB also notes that this valuation methodology appears consistent when applied to the City's Assessment Comparables. Accordingly, application of the stratification valuation outlined above produces a valuation of 10,592,000 (the current assessment), and after applying the 15% credit for the

easeement, the CARB reduces the assessment to \$9,000,000 as noted above.

There was little evidence or argument from either party concerning the slope issue at the rear of the site, and so the CARB concludes there was no value impairment due to the slope to the roadway on the east access to the property.

DATED AT THE CITY OF CALGARY THIS 24th DAY OF August, 2012.


James Fleming
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.

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Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Vacant Land	Cost/Sales Approach	Land Value