

**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:

33rd St. N. General Partner Inc. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

D. Trueman, PRESIDING OFFICER

Y Nesry, MEMBER

J. Rankin, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	200080273	200080265
LOCATION ADDRESS:	3261 5th Ave. NE.	3151 5th Ave. NE
HEARING NUMBER:	64245	64247
ASSESSMENT:	\$1,410,000	\$2,000,000

This complaint was heard on 7th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *C VanStaden*

Appeared on behalf of the Respondent:

- *K Buckry*

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

The parties agreed that while the properties were separate roll numbers they were nevertheless adjoining properties and that because of the potential for them to be jointly re-developed as well as their common current ownership and valuation issues it was appropriate that they be heard conjunctively.

The parties agreed that there was no other procedural nor jurisdictional matters to be dealt with prior to the commencement of the hearing.

Property Description:

The properties are unimproved (land only), General Industrial zoned, parcels located in the northeast Franklin Industrial district. They are parcels of 1.53 and 2.27 acres respectively and are reported to have been the former location of a hardware distribution building.

Issues:

The Complainant advised the Board that the main issue was that a rail spur was present on the property at 3151 5th Ave. NE and that this feature would inhibit future development of both of these sites.

Complainant's Requested Value: \$1,630,000 and \$1,320,000

Complainant's position:

The Complainant provided a chart of 10 sales which suggested that a median market value for the subject property of \$19.43 a square foot or roughly \$850,000 per acre is indicated. Application of \$850,000 per acre together with a limited use discount of 15% resulted in a revised requested assessed value for the larger property of \$1,630,000. The Complainant asserted that there is little interest in on-site spur line trackage in the current development climate and that the City had apparently not addressed this issue given the conclusions reached from their comparable sales. The Complainant pointed out that the City have a standard public utility downward adjustment of 15%, which at the least should have been applied.

Respondent's position:

The Respondent provided the City's 2011 industrial land rates chart which depicted a rate of \$925,000 per acre, for land similar to the subject. The Respondent went on to present a chart of improved land sales transactions which supported the foregoing contention. The Respondent agrees that the City did not consider the effects of the spur rail in their assessment conclusions.

Complainant Rebuttal:

The Complainant provided a recent CARB decision which reduced the assessed value of industrial lands based upon the strength of the comparable sales used by the Complainant and the weakness of the Comparable sales used by the Respondent.

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

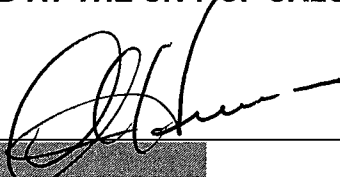
On questioning the Complainant testified that she thought that she had seen rail cars spotted adjacent to the subject property. The Respondent was unsure of the current status of the rail spur. The Board examined the photographs on page 14 and 15 of Exhibit C1 and page 12 of Exhibit R1 and are convinced that the rail spur trackage in question has been removed. At least the tracks connecting the rail line have been removed at their intersection with 5th Avenue. In the opinion of the Board this renders the rail spur inoperative. Given that this complaint is based upon a land deficiency resulting from implied use of rail spur trackage the Board has decided that the evidence that such a condition exists is insufficient to warrant considering a reduction in assessment.

Finally the Board considered the market value evidence as presented by each of the parties. In the opinion of the Board the comparable sales presented by the Respondent were generally a better reflection of the subject properties characteristics, not the least of which was location, than were the Complainants.

Board's Decision:

The complaint is denied and the assessments are confirmed in the amounts of \$2,000,000 and \$1,410,000 respectively.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF November 2011.



Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Vacant Land	Spur Line Trackage	