

**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:

526304 Alberta Ltd. (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Golden, PRESIDING OFFICER

R. Kodak, MEMBER

D. Steele, 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: 067231100

LOCATION ADDRESS: 725 9 Av SW

HEARING NUMBER: 61201

ASSESSMENT: \$62,230,000.00

This complaint was heard on 6 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *C. Hartley*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

There were no procedural issues in this hearing.

Property Description:

This is a single title property of 258,105 square feet or 5.93 acres in size. The land has no improvements and is operated as a parking lot at this time. It extends the length of three city blocks between 5 St. and 8 St. the parcel is 1620 feet by 120 feet in size. The CPR railway forms the south boundary of the subject lands. The land is in the DT2 assessment zone which attracts a \$275.00 per square foot (sq ft) base assessment.

Issues:

- 1) Is the base land rate of \$275.00 / sq ft the appropriate assessment rate?
- 2) Should an additional negative adjustment of 15% be applied to the subject lands for reduced functionality?
- 3) Should the positive adjustment of 10% for transitional remain applied to the subject parcel

Complainant's Requested Value: \$38,840,000.00

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

The base rate of \$ 275.00/ sq ft is appropriate for the subject lands.

The Complainant suggested that lack of sales evidence makes it difficult to establish market value for downtown land. Since the general economy slowed there are few sales to use in a direct comparison approach to valuation. The rate of \$275.00 was a rate from the peak of the market and must be lower to reflect the current market conditions. To illustrate the affect of the poor economy the complainant drew the Board's attention to office lease rates. These rates show a decline in the per square foot lease rate. Since vacant downtown land is most likely to be converted into office space declining lease rates should reflect the decline in the price of vacant land. Since office construction then drives land value, perhaps not through a direct relationship, reduced lease rates mean reduced land values.

Two options for calculating a more representative assessment were discussed. Firstly, in a table of sales of downtown lands the Complainant among other things pointed out the most recent sale of DT1 land was at 525 4 St. SW. for \$200.00/ sq. ft. It was suggested that the Board could just apply that rate to the subject parcel and reach a more appropriate base rate for the assessment. Although presented to the Board this was not the method used to calculate the requested assessment.

The method used by the Complainant to develop the requested assessment was a present value calculation. In the opinion of the Complainant the peak value of downtown sales was \$ 275.00 /sq ft. achieved some time in 2007 and that that level could be expected to be achieved again in the market in some 5 years. Using a discount rate of 5% the calculation yields a base rate of \$215.00/ sq ft. The requested assessment uses this rate and applies or deducts additional adjustments as will be discussed.

The Respondent discussed the various sales and presented graphic information to support the base rate of \$275.00. Depending on the years used, the rate is supported. The Respondent questioned the sales presented by the Complainant on page 29 of Exhibit C-1 as many of the sales were from outside the assessment area DT2. If the Board considered the Complainants sales in the DT2 area in 2006 and 2007 the three sales have a mean of \$274.00. On page 63 of Exhibit R-1 the Respondent presented a table of 16 sales in the DT2 district from 2006 to 2010 that support the assessed rate as the sale mean is \$266.00.

The Board rejected the Complainants first approach of requesting the use of one sale of \$200.00/ sq ft to establish the base rate of \$200.00 and then directly apply that rate to the subject property. One sale is insufficient to establish the market value in this case. The Board is not satisfied that the actual sale is similar to the subject property. The sale, which is at 525 - 4 St. SW, was pointed out to be a small laneway of 4628/ sq. ft.

With respect to the second approach presented to the Board that resulted in the base rate of \$215.00 / sq ft, the Board also does not accept the method that was used to develop the market value. Both the inputs to the present value calculation and the use of a present value calculation are questionable. The choice of a 5 year time period, the discount rate of 5% and the value of \$275.00 were not sufficiently defended and in the opinion of the Board, not indicative of market conditions. In terms of market based evidence the Respondent presented more convincing information. Sixteen sales were introduced by the Respondent and In particular the Board found the following sales most informative:

Address	Area	Per sq. ft. value	Related issues
1401 9 Av SW	10,418/sq ft	\$152.19	Site problems
935 8 Av SW	32,626/sq ft	\$183.90	Forced sale
919 5 Av SW	9764/sq ft	\$358.46	10/05/2009
919 5 Av SW	9764/sq ft	\$435.00	11/30/2010

These sales occurred in the DT2 assessment district; the same district as the subject and occurred relatively recently in 2009 and 2010. The sales yield an average value of \$282.38/ sq ft.

It is recognized that these sales also are not very similar to the subject in size. However they constitute the best evidence before the Board. The Board considered that sales 1 and 2 could

be expected to sell for higher prices if the restrictive conditions were not present. This would increase the average value. In questioning by the Complainant it was evident that larger parcels sell for a lesser amount /sq ft than smaller parcels. In the Board's opinion these sales support the \$275.00 base rate applied by the Respondent.

2) An adjustment for reduced functionality is not warranted.

The Complainant stated to the Board that the shape of the parcel reduced its value in the market place. The newer major developments occur on full blocks or at least across the width of a block or +- 260 feet (ft). This allowed a developer to market office space with views to the Mountains and demand higher rents. The subject site is the equivalent of ½ a block with a width of 120 ft. This means that the long wall of any development faces south and therefore is worth less in rental rates. The Complainant also pointed out that the City had an adjustment for such parcels and presented evidence from the City Assessment Department showing the various adjustments available to be applied to properties. In particular the SPR Shape Reduced Functionality adjustment of 15% as shown in one of the diagrams should be applied to the subject site as it has the long narrow shape demonstrated in the noted diagram.

The Respondent pointed to the example diagram used by the Complainant and explained that the illustration was intended to demonstrate functional problems with lots similar to a lane that were long and narrow and restricted because of it. There was no proven diminished capacity on this parcel.

The Board agrees with the Respondent and notes the parcel size is 5.93 acres in size and measures 1620 ft. by 120 ft. The site is generally long and narrow but also very large for the downtown and affords considerable flexibility for development. The request to place this negative adjustment remains unproven and without merit.

3) The positive adjustment of 10% for transitional influence remains applied to the subject parcel.

The Complainant requested a further 10% reduction in the assessment based upon the City assessment departments practice in the downtown area to apply a transitional influence. In the downtown location of the subject property a 10% positive influence is applied apparently to recognize the adjacency to different and higher value assessment zone. The complainant objected to the adjustment firstly because there is no market evidence to suggest that properties adjacent to other market areas benefit from that location. In this case the subject lands are located in the DT2 district and are adjacent to the DT1 district. Since there is no evidence of benefit the City has arbitrarily implemented the adjustment.

Referring to a map on page 52 of exhibit R-1 the Complainant suggested that the application of the transitional adjustment was improper. In the case of the subject property the transitional adjustment applied to approximately 550 ft. of the easterly portion of the parcel. The map indicated in some cases the adjustment applied only to 25 ft. to 50 ft distances from the DT1 zone and disadvantaged the subject parcel.

Lastly the Complainant suggested that because the subject parcel bordered the DT1 district along 5 th St. SW the adjustment should not apply. Fifth St. at this point crosses under the CPR

tracks and the elevation drop for the subway means there is no street level access along the street frontage. Given this elevation difference no transitional benefit exists.

The Respondent presented to the Board the difference in the base rate for assessment between DT1 and DT2 zones which amount to \$100.00 /sq ft., a significant amount and the boundary of the two zones being 5 St. SW. The Respondent further explained that the transitional adjustment is a new adjustment applied this year. The intent of the adjustment is to address compliant issues in previous years regarding the issue of properties on either side of a street having significantly different assessment base rates when the street forms the boundary of an assessment zone. It was theorized that parcels immediately adjacent to a different assessment zone would either be positively or negatively affected by the other district. In the case of the DT2 zone the properties adjacent to the DT1 zone would have a slightly higher market value. In the case of DT1 properties adjacent to DT2 properties the transitional adjustment is a negative adjustment. The actual value of the adjustment was set at 10%. The result is that the assessments for these boundary parcels are not so sharply defined reflecting a transition from one zone to the next.

When implementing the new adjustment for transition it was determined that the roll number immediately adjacent to the assessment zone would have the adjustment applied. Consequently as demonstrated on the map on page 52 of exhibit R-1 the area to which the adjustment is placed varies with the size of parcels contained in the roll number. In the case of the subject lands the parcel is very long and the adjustment was made only to approximately 1/3 of the total area which corresponds with the land to the north which has the transitional adjustment on the entire block.

In terms of the impact of the 5 St. SW. crossing of the CPR railway and the elevation difference between the street and the subject parcel the Respondent pointed out that 9 th. Ave is a major traffic artery providing a great deal of exposure to the parcel

The Board is of the opinion that the onus is on the Complainant to provide adequate evidence to justify the variance of the assessment. In this case the Complainant had no evidence that the market does not recognize some transitional area and that market values for assessment purposes are not better represented in the blended zone created by the transitional adjustment. Based on the evidence submitted by the Complainant the Board agrees with the concept of the transitional adjustment.

The Complainant also provided no information that would lead the Board to adjust the amount of the transitional adjustment from 10%. Again it is the responsibility of the Complainant to provide sufficient evidence to warrant a further review of the Respondent's documentation.

The Board notes the variation in the sizes of parcels that have the transitional adjustment applied however the adjustment on the subject lands was changed from the policy of applying it to the entire roll number recognizing that the parcel is unusually large. The area of the subject parcel that has the adjustment applied is the same as the adjacent parcel and therefore has some reasonable bases of application. The Complainant did suggest a reduced area that a transitional area rate should be applied.

Board's Decision:

The assessment is confirmed at \$62,230,000.00

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF November 2011.



Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure part 1
2. C-2	Complainant Disclosure part 2
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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other property	parking	Sales approach	Land value