

**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(4), Revised Statutes of Alberta 2000 (the *Act*).

between:

***1322284 Alberta. Ltd., COMPLAINANT,
as represented by Altus Group***

and

The City Of Calgary, RESPONDENT

before:

***T. Helgeson, PRESIDING OFFICER
E. Reuther, MEMBER
Y. Nesry, 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: 075077321

LOCATION ADDRESS: 2032 36th Street SE

HEARING NUMBER: 63760

ASSESSMENT: \$582,000

This complaint was heard on Tuesday, the 8th of November, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *A. Izard*

Appeared on behalf of the Respondent:

- *K. Gardiner*

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

Before the Complainant introduced his rebuttal document, the Respondent objected to pages 94 through 122 on grounds that the pages contained evidence that should have been part of the Complainant's initial evidence submission. The Complainant made no argument against the objection. The Board agreed to exclude pages 94 through 122.

Property Description:

The subject property is a vacant 8,960 sq. ft. parcel adjacent to 2036 36th Street SE, a parcel that is the home of "Car Zone," an automobile dealership. The subject property, designated "Commercial-Corridor 2, provides automobile storage for Car Zone. The 2011 assessed value is \$582,000.

Regarding Brevity

In the interests of brevity, the Board will restrict its comments to those items the Board finds relevant to the matters at hand. Furthermore, the Board's findings and decision in this matter reflect the evidence that was presented and examined by the parties before the Board at the time of the hearing.

Issues:

1. Does the subject property provide required parking for the car dealership on the adjacent property at 2036 36th Street SE?
2. If the subject parcel provides parking for required parcel, does it qualify for the nominal \$750 parking assessment?
3. Is the 2009 sale of the subject property reliable evidence of market value.

Complainant's Requested Value:

\$750.00 based on the subject property's use for required parking, or in the alternative, \$481,000 based on a recent sale of the subject property, and preferably, as time-adjusted at negative one percent per month.

Summary of the Complainant's Submission:

The subject property and the Car Zone property were purchased together in 2009 because the subject property is required for parking necessary to the operation of Car Zone. The sale price for both parcels was \$1,300,000. The Car Zone property is assessed on the income approach. Without the parking on the subject property, Car Zone would not be able to operate. The Respondent is double-taxing the subject, a vacant parcel, because it has already been assessed on the income approach for the Car Zone property. Our evidence includes over thirty vacant parcels of land required for parking that are each assessed at \$750.00.

Furthermore, the price of the subject property at the time of sale in June of 2009 was \$481,000. Between then and the valuation date, July 1st, 2010, the assessed value jumped by \$101,000. The assessment is wrong both in the light of market value, and in equity. The sale of the subject property was at market value. The assessment-to-sales ratio of the subject property is 1.21, and with the time adjustment, 1.28. We have no argument with a negative one percent per month time adjustment. The subject's assessed value, based on the sale price adjusted for thirteen months, would then be \$418,470. So how did we get to \$582,000? Another way of arriving at reasonable assessed value would be to subtract the assessment of the Car Zone property from the sale price, leaving an assessed value of \$453,000 for the subject property.

Summary of the Respondent's Submission:

The Complainant provided no evidence that would indicate the subject is used for required parking. Seven sales of C-Cor 1, 2 and 3 properties show time-adjusted sale prices, also as adjusted for influence, from \$31 to \$112 per sq. ft. These valid sales were used to derive a standard rate. Vacant C-Cor 1, 2, and 3 properties are assessed at \$65 for the first 20,000 sq. ft, with the remainder at \$28 per sq. ft.

You can't "sale chase," i.e., adjusting the assessment to the sale price to achieve an assessment-to-sales ratio of 1.0. Two decisions of the Composite Assessment Review Board, CARB 2242/2010-P and CARB 2243/2010-P, found that the nominal parking rate of \$750 creates a potential inequity, hence to maintain equity three conditions must exist:

1. The improved parcel to which the vacant parcel is linked must be deficient in parking, and the parking provided on the vacant land must be necessary to satisfy the deficiency,
2. A contractual arrangement must exist whereby the property cannot be readily sold for redevelopment separate from the improved parcel, and,
3. The value of the vacant parcel must be captured in the value of the improved property to which it is linked, i.e., the total value of the vacant parcel and the linked improved parcel must reflect market value.

The Complainant has not shown that the Car Zone parcel is deficient in parking, or that there is a contractual arrangement between the subject and the Car Zone property, or that the value of the subject property has been captured in the assessed value of the Car Zone parcel. The Complaint should be dismissed.

Summary of the Complainant's Rebuttal:

The sales the Respondent relied on to develop its "standard rate" included government transactions, land exchanges, etc., and such sales cannot be relied upon to reflect market value. For example, 1619 3rd Street NW, a property used in the Respondent's standard rate, was expropriated by the Respondent. Its ASR is .6109. Similarly, the sale of 2450 10th Avenue SW (not SE as in the Respondent's evidence) was a purchase by the Respondent. These transactions should not have been included in the derivation of the Respondent's standard rate. Their inclusion has skewed the standard rate.

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

The Board finds that the subject property provides storage of automobiles for Car Zone. Although automobile storage for a dealership was not what the Board dealt with in CARB 2242/2010-P and CARB 2243/2010-P, the Board sees no reason why the three conditions to be met for nominal parking value set forth in those decisions should not apply in the present case. From the evidence, it does appear that the Car Zone property lacks sufficient outdoor storage space for automobiles, therefore the first condition is met.

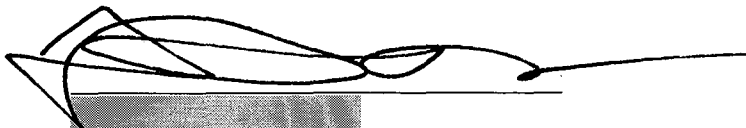
The second condition mandates a contractual agreement whereby the parcel used for parking cannot be "readily sold for redevelopment separate from the improved parcel." That condition has not been met in the present case, hence the Board need go no further. The subject parcel does not qualify for the nominal \$750 parking rate.

The Board finds that the Complainant's evidence has raised doubt about the Respondent's standard rates for C-Cor 1, 2, and 3 properties. The assessed value of the subject parcel does seem excessive. There is a recent sale of the subject parcel, and the Respondent's assessor, with her usual candour, agreed that the sale was a valid market transaction. In the Board's view, this is one of those cases where the sale price is the best evidence of market value, and where sale price is to become assessed value, it should be taken neat, with no adjustments or arithmetical mixing and meddling with the assessment complained of.

Board's Decision:

Accordingly, the assessed value of the subject property is adjusted to \$481,000.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF November 2011.


Presiding Officer

Exhibits:**C-1, Complainant's Evidence Submission****R-1, Respondent's Assessment Brief****C-2, Complainant's Rebuttal**

<u>Appeal type</u>	<u>Property type</u>	<u>Property sub-type</u>	<u>Issue</u>	<u>Sub-issue</u>
CARB	Other	Vacant Land	Cost/Sales Approach (Types 1 to 6)	Land Value

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.*