



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:

**Suncor Energy Inc. formerly
Petro-Canada Exploration Inc., COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**P. Petry, PRESIDING OFFICER
B. Jerchel, BOARD MEMBER
E. Bruton, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER: 079012704

LOCATION ADDRESS: 1920 4th Street S.W.

FILE NUMBER: 70381

ASSESSMENT: \$7,300,000

This complaint was heard on the 7th day of August, 2013 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:

- *L. Sangdaan, Suncor Energy Inc., Tax Advisor*

Appeared on behalf of the Respondent:

- *L. Wong, City of Calgary*

Property Description:

- [1] The subject is a 31,005 sq. ft. parcel located at the corner of 20th Avenue and 4th Street S.W. The city has designated the area surrounding the subject as economic zone - FS1. The subject property is improved with a gas station, a car wash and a convenience store. The property has been assessed using the cost approach to value.

Issue:

- [2] Which sales provide the most reliable indicator of market value for the subject property?
- [3] Is there additional market value for the improvements on this site?

Complainant's Requested Value:

- [4] The Complainant's request is that the assessment be reduced to \$5,125,000.

Board's Decision:

- [5] The CARB confirms the assessment at \$7,300,000.

Legislative Authority, Requirements and Considerations:

- [6] The Composite Assessment Review Board (CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:
- [7] *Section 460.1(2): Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).*
- [8] For purposes of the hearing, the CARB will consider MGA Section 293(1):

In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations

- [9] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:

- [10] *An assessment of property based on market value*

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property

Summary of the Party's Positions

Complainant

- [11] The Complainant argued that there has been a 41% increase in the assessed value over the previous year and the current assessment does not reflect the subject property's market value. It presented three sales in support of reducing the assessment to \$5,125,000. The first sale at 526 16 Avenue N.W. sold on January 4th, 2012 for a sum of \$1,520,000, or \$126.77 per sq. ft. The second sale at 1801 2nd Street S.W. and 305 – 309 18th Avenue S.W. sold to the same purchaser for a total of \$3,075,000 or \$163.13 per sq. ft. The third sale at 1339 9th Avenue S.E. sold for the sum of \$1,470,000 or \$120.39 per sq. ft. The assessment for the land associated with subject property is \$231.00 per sq. ft. The Complainant suggested that the second sale is the best indication of market value for the subject. Although the subject has a superior location, the second comparable has greater development potential. These two factors tend to balance out and therefore based on this sale. The Complainant maintains that a value of \$165 per sq. ft. would be a reasonable basis for valuing the subject property.
- [12] With respect to the current improvements the Complainant argued that the current use is not the highest and best use of this property and any potential purchaser would buy the property for its redevelopment potential. Therefore there should be no value or a very nominal value of \$10,000 attached to the current improvements.
- [13] Based on the land valued at \$165 per sq. ft. and a nominal value of \$10,000 for the improvements, the Complainant recommended a revised assessment of \$5,125,000.

Respondent

- [14] The Respondent indicated that it has applied the cost approach to arrive at

market value for the subject. The land has been valued at \$7,162,386 and the improvements based on Marshall and Swift have been valued at \$143,110, bringing the total value to \$7,300,000.

- [15] The Respondent indicated that while the subject is located in the FS1 zone of the Beltline district, land values in the BL3 and BL4 zones are very similar. Therefore the Respondent groups all sales in these three zones when doing its analysis. The land rate that has been used for these zones is \$220 per sq. ft.
- [16] The Respondent presented a table consisting of four Beltline sales which showed a median value of \$220.45 per sq. ft. In addition the Respondent referred the CARB to a sale that it termed as being post facto, which occurred July 4th, 2012. This sale was for a sum of \$5,500,000 or \$229.13 per sq. ft. The property includes improvements that had no value and therefore the value of \$229.13 per sq. ft. is for land only. The Respondent also introduced an earlier sale, which occurred on May 31, 2010 for the sum of \$3,600,000 or \$284.95 per sq. ft. The Respondent argued that although somewhat dated, this sale is of a property very similar to the subject. It is a corner lot in FS1 of the Beltline and is zoned C-Cor1 as is the subject.
- [17] The Respondent argued that based on the sales data it has brought forward the value of \$220 per sq. ft. is reasonable, correct and equitable and requested that the CARB confirm the assessment.

Findings and Reasons for the Board's Decision:

- [18] The CARB has carefully reviewed both party's sales evidence to determine the most reliable market value indicators for the subject property.
- [19] The Complainant has used two sales outside the economic market zone applicable to the subject property. One of these comparables is in the north-west quadrant of the city along 16th Avenue, and the other one is in the Inglewood district, east of downtown Calgary. Without more evidence to show that these market areas produce comparable sales values to those values in FS1, BL3 and BL4 of the Beltline, the CARB concluded that little weight could be placed on these sales values.
- [20] The sale that the Complainant suggested to be the best indicator of the market value for the subject has different zoning and has an inferior location. The CARB is not convinced that the higher density allowable, in the case of this comparable, would balance out the preferential location on 4th Street S.W. as was suggested by the Complainant.
- [21] The Respondent's sales were all within the Beltline area; however some also had different zoning and also locational differences. The CARB placed some weight on the July 4th, 2012 sale at a value of \$229.13 per sq. ft. The CARB does not consider this sale to be post facto and the property has similar zoning and influences to that of the subject. The CARB also placed some weight on the sale at 2207 4th Street, which occurred May 31, 2010. This property again has many similarities to the subject and sold for \$284.95 per sq. ft. While the Complainant made the observation that this sale had not been time adjusted, it did not produce evidence which challenged the Respondent's contention that the value

is still indicative of values as of July 1, 2012.

[22] With respect to the value inherent in the current improvements, there was no basis found to alter the cost developed by the Respondent using the Marshall and Swift manual. The value therefore remains at \$143,110.

[23] The onus is on the Complainant to introduce evidence which would allow the CARB to conclude that an alternate value is more reasonable and probable than the current assessment. The CARB finds the evidence brought forward by the Complainant was not sufficiently compelling to allow it to overturn the current assessment.

[24] The assessment is therefore confirmed at \$7,300,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF August 2013.



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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
Commercial	Service Station	Beltline FS1	Land Rate	Value of Improvements