

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:

PBA LAND DEVELOPMENT LTD.
(as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K. Williams, PRESIDING OFFICER
K. B. Bickford, MEMBER
A. Maciag, 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: 067027805

LOCATION ADDRESS: 402 8 ST SW

FILE NUMBER: 70859

ASSESSMENT: \$2,110,000

This complaint was heard on 28th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- G. Worsely Agent, MNP LLP

Appeared on behalf of the Respondent:

- D. Grandbois Assessor, The City of Calgary

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

[1] The parties identified to the Board that the evidence and arguments to be presented in respect of the hearing on the Downtown Land Rates for the subject property will be as presented in respect of File #71206 for Property Roll #067073908 requested that the evidence and arguments be carried forward to the subject property. It was accepted that the Board's findings and decision regarding the land rate issue would therefore be common to the subject property. The Board found this to be an appropriate approach to the matters at hand.

[2] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[3] The subject property at 402 8 ST SW is a 1,271 square foot (sq. ft.) building on 0.15 acre (6,511 sq. ft.) of land with a 1928 approximate year of construction (ayoc), assigned a B-quality rating in the Downtown Commercial Core assigned a Subproperty use code CS2550 Retail/Marginal in Downtown Zone 2 East (DT2E) land zone and Land Use CM-2 (pre1P2007). The subject property is located on the corner of 4th Ave and 8th Street SW.

[4] The assessment was prepared on the Sales Approach and valued as Land Only using the DT2 East land rate of \$310 per square foot (psf) which is adjusted as required for the influences to recognize corner lot (+5%).

Issues:

[5] Should the land rate for DT2 East be reduced from \$310 psf to \$266 psf?

Complainant's Requested Value: \$1,810,000

Board's Decision:

[6] Based on the evidence and argument presented, the Board supports a land rate of \$289 psf for DT2 East.

[7] The assessment is reduced to \$1,970,000.

Position of the Parties

[8] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[9] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the 2013 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach the MNP Comparable Market Transaction analysis with supporting documentation and the Downtown Vacant Land Base Rate Map. In support of the land rate the evidence included a number of land sale analysis with supporting documentation. In support of its position, the evidence included excerpts from legislation, technical documents, as well as decisions of the Alberta Court of Queen's Bench and Board decisions.

[10] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Notice, the 2013 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach, the Assessment Request for Information, and the Downtown Vacant Land Base Rate Map, 2013 Downtown Land Rates by Zone with supporting documentation by zone. In support of the land rate the evidence included a number of land sale analysis with supporting documentation. Also, in support of its position, the evidence included excerpts from legislation, technical documents, as well as Board decisions.

[11] Both parties placed technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of the document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[12] As noted above, both parties placed before this Board a number of Alberta Court of Queen's Bench, Assessment Review Board and Municipal Government Board decisions in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

Issue – Land Rate

Complainant's Position:

[13] As support the Complainant reviewed 4 comparable market transactions reported during the period June 29 2011 to July 27, 2012 (page 38 of Exhibit C1). The following table presents the details on each of the 4 transactions:

Address	300 6 Ave SE	604 8 Ave SW	718 8 Ave SW	617 8 Ave SW
Date Sold	29 June 2011	27 July 2012	24 Jan. 2012	15 Nov. 2011
Price	\$13,700,000	\$2,000,000	\$2,000,000	\$1,675,000
Influence Adjustment	-5%	-15%	0%	0%
Adjusted sale price	\$13,015,000	\$1,700,000	\$2,000,000	\$1,675,000
Lot size square foot sq. ft.	62,451	6,504	6,506	6,172
Price per square foot (psf)	\$208.40	\$261.38	\$307.41	\$271.39

Zoning/Bylaw Number	DC/86D2008	CM-2/1P2007	CM-2/1P2007	CM-2/1P2007
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[14] As each of the comparable transactions are improved properties, the Complainant prepared three additional approaches to value:

- 1) Extraction Method - Sale Price adjusted for Cost of Improvements
- 2) Land Residual Method – Sale Price adjusted for interim Income Stream
- 3) Adjusted Sale Price Comparable – original sale price adjusted only for influences and location differences

Details on each analysis are provided on pages 39-46 of Exhibit C1.

[15] The table on page 46 of Exhibit C1 presented details on each comparable as well as the average and median sale price (\$ psf) determined by each approach outlined in paragraph [16]. The following table presents the average and median sale price (\$ psf) as determined by each approach:

Approach	Average	Median
Extraction Method	\$229.45	\$233.47
Land Residual Method	\$216.12	\$219.62
Adjusted Sale Price Comparable	\$261.65	\$265.78

[16] The Complainant concluded that the most reasonable rate obtained from the market transactions is the Adjusted Sale Price which is \$265.78 psf rounded to \$266.00 psf. When this price is adjusted for the corner location influence adjustment of +5% the adjusted rate is \$279 psf. Based on the \$279 psf land rate applied to the area of 6,511 sq. ft. the requested assessment of \$1,810,000 is supported.

[17] In summary, the Complainant argued that the analysis of the comparables yields a requested rate of \$266 psf which when adjusted is \$279 psf.

Respondent's Position:

[18] The Respondent reviewed the Complainant's comparables and argued:

- 1) The property at 604 8th Ave SW should be excluded from the analysis as the transaction date is July 27, 2012 which makes this a post facto transaction and
- 2) The comparable at 300 6 Ave SE should be excluded as this property is in DT3 which is a peripheral location within the downtown market.

The exclusion of the above 2 comparables reduces the sample to two transactions which are both in DT2 East, have CM2 zoning and are close to subject. Further the lot sizes of 6,172 and 6,506 sq. ft. compare favourably with the subject lot size of 6,511 sq. ft. Based on the 2 transactions the mean and median price is \$289.40 psf.

[19] As further support the Respondent reviewed details on the City of Calgary 2013 Downtown Vacant Land Zones, 2013 DT Land Rates and 2013 DT Land Influences presented on pages 35-41 Exhibit R1. The DT2 East land rate is reported as \$310 psf prior to any adjustments for influences.

[20] The DT2 East rate is based on a sample of 3 transactions in the period November 2010

to January 2012. The sample included the 2 comparables in the Complainant's sample as well as the transaction at 919 5 Ave SW which is a land only transaction in the DT2 East zone. This transaction compares favourably with the two transactions in the Complainant's sample on the basis of lot size and zoning. Details on the analysis and supporting documentation which is the basis for the determination of the DT2 East rate of \$310 psf is provided on pages 88-136 of Exhibit R1.

[21] In summary the Respondent argued that the DT2 East land rate of \$310 psf is based on comparables to the subject. The subject property location has been identified as impacted by the corner lot influence which translates into an adjustment of +5%. The application of the influence adjustments to the base rate yields a land rate for the subject property of \$325 psf which when applied to the land area of 6,511 sq. ft. supports the assessment of \$2,110,000.

Board's Reasons for Decision:

[22] The Board reviewed the Respondent's sample of 3 comparables used to determine the DT2 East land rate of \$310 psf and were of the view that the inclusion of the transaction for 604 8 Av SW provides a broader sample of DT2 East comparables. The transaction date for 604 8 Av SW is July 27, 2012 and is considered by the Respondent as post facto. However, this transaction is but 27 days following the July 1 date and is still in the 2012 assessment year.

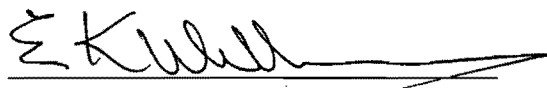
[23] The following table presents details on the Respondent's 3 comparables referenced in paragraph [20] and reported on page 89 of Exhibit R1 plus the transaction for 604 8 Av SW:

Address	919 5 Ave SW	604 8 Ave SW	718 8 Ave SW	617 8 Ave SW
Sale Date	30 Nov. 2010	27 July 2012	24 Jan. 2012	15 Nov. 2011
Sale Price	\$4,250,000	\$2,000,000	\$2,000,000	\$1,675,000
Influence	N/A	Corner/Transition Zone	N/A	N/A
Lot size square foot sq. ft.	9,764	6,504	6,506	6,172
Property Type	Land Only	Land Improved	Land Improved	Land Improved
Zoning/Bylaw Number	CM-2/1P2007	CM-2/1P2007	CM-2/1P2007	CM-2/1P2007
Adjusted Sale Price psf	\$435.27	\$261.38	\$307.41	\$271.39

The median adjusted sale price for the above 4 comparables is \$289.40 psf rounded to \$289 psf.

[24] Following an examination of the analysis presented in paragraph [23] the Board determined that the DT2 East land rate which is reflective of the transactions in the zone during the period November 2010 to July 2012 is \$289 psf.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF November 2013.



Earl K. Williams
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure Subject Property 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

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Sales Approach	Land value