

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:

GEORG STRANGEMANN (*as represented by Altus Group Limited*), **COMPLAINANT**

and

The City Of Calgary, **RESPONDENT**

before:

M. Axworthy, PRESIDING OFFICER

M. E. Bruton BOARD MEMBER

D. Morice, 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: 201001880

LOCATION ADDRESS: 513 9 AV SW

FILE NUMBER: 73177

ASSESSMENT: \$10,290,000.

This complaint was heard on the 23rd day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *M. Cameron (Altus Group Limited)*

Appeared on behalf of the Respondent:

- *K. Gardiner (City of Calgary)*

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

- [1] No procedural or jurisdictional matters were raised.

Property Description:

- [2] The property is located in the Downtown 1 (DT1) Non- Residential Zone (NRZ) and is developed as a surface parking lot in conjunction with the property immediately to the west at 529 9 AV SW. It has an assessable land area of 34,123 square feet (sq. ft.) and is assessed as land only.

Board's Decision:

- [3] The Board confirms the assessment.

Legislative Authority, Requirements and Considerations:

- [4] Under the Act, 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 460 (1)(a).

- [5] Both parties submitted background information and evidence in the form of photographs, aerials site maps as well as extensive information on the issues at hand. In the interest of brevity, the Board will restrict its comments to those items the Board determines to be most relevant to these issues.

- [6] The Board was presented with a number of previous decisions of Assessment Review Boards. While the Board respects the decisions made by those Boards, it is mindful that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless the issues and evidence are found to be timely, relevant and materially identical to the subject complaint.

Issues:

- [7] The Complainant argued the following issue at the hearing:

There is an inequity in assessment between the adjoining parcel at 529 9 AV SW.

Complainant's Requested Value: \$9,080,000.

ISSUE: Is there an inequity in assessment between the subject and the adjoining parcel at 529 9 AV SW?

Position of the Parties

Complainant's Position:

[8] The Complainant stated that there is an inequity in assessment with the adjoining parcel at 529 9 AV SW which was assigned a transition zone adjustment of -10%. The Complainant argued that because the subject was operated as a single parking lot in conjunction with the adjoining parcel, the subject should also benefit from the same adjustment.

[9] The Complainant provided copies of Certificates of Title for both the subject and the adjacent parcel, indicating that they were owned by two brothers and operated as a single parking lot, with mutual access agreements. [C1 pp. 21-52]

[10] In support of its argument, the Complainant provided two examples where it attested that the Respondent had applied a transition zone adjustment to interior sites; 1009A, B and C 9 AV SW and 725 9AV SW [C1 pp. 63-65] and suggested that these examples indicated that the Respondent had been inconsistent in its application of this adjustment.

[11] The Complainant also argued that the Direct Control land use district that applied to both parcels assigned a higher Floor Area Ratio (FAR) to 529 9 AV SW and that was inequitable that the subject parcel, with a lower FAR, had a higher assessment [C1 pp. 54-61].

Respondent's Position:

[24] The Respondent stated that it was the policy of The City of Calgary to apply a transition zone adjustment to the parcel which abuts or is immediately contiguous to the transition zone boundary. [R1 pp.31,32]. The Respondent stated that 513 and 529 AV SW are separately titled parcels of land, and that according to this policy, the subject was not eligible for this adjustment.

[25] With respect to the Complainant's argument that The City had been inconsistent in its application of this policy, The Respondent indicated the parcel at 725 9 AV SW was unique as it was three blocks in length and was under a single title. The Respondent stated that as a result of an earlier CARB decision, a Transition Zone adjustment had been applied to approximately one third (one block) of the parcel.

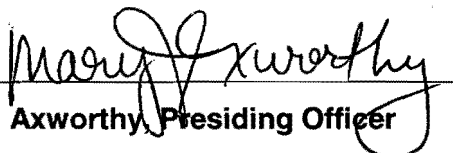
[27] The Respondent further noted that the transition zone adjustment had been applied to the three parcels at 1009 9 AV SW as they were either on or adjacent to the 9 St SW right-of-way which is the boundary line between DT2W and DT2E.

[28] The Respondent referenced a recent CARB decision 71562/P-2013 that supported this approach [R1 pp. 16-20].

Board's Reasons for Decision:

[29] The Board finds that The City of Calgary has been consistent in its approach to applying the transition zone adjustment and agrees with the Respondent that this adjustment should not be applied to the subject parcel as it is separated from the 5 St. SW boundary line between DT1 and DT2E by a separately titled, adjacent parcel at 529 9 AV SW.

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF October 2013.


M. Axworthy, Presiding Officer

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

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

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB				