

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:

Calgary Salvage Disposal Ltd., (as represented by Altus Group),

COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. B. Hudson, PRESIDING OFFICER

D. Julien, BOARD MEMBER

J. Lam, 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 NUMBERS: 200137099, and 200137107

LOCATION ADDRESSES: 2015 Alyth CO SE, and 2289 Alyth PL SE

FILE NUMBERS: 73684, and 73686

ASSESSMENTS: \$759,000, and \$4,560,000

This complaint was heard on the 13th day of August, 2013 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:

- *D. Mehwa*

Appeared on behalf of the Respondent:

- *R. Luchak*
- *E. Wu*

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

The Complainant advised that two versions of their disclosure document were submitted to the Assessment Review Board. They are identical, with the exception that one has numbered pages, while the other does not. The Complainant requested that the Board enter only the version with numbered pages as an Exhibit.

The Respondent noted that the version with numbered pages was received after the deadline for disclosure, while the unnumbered version was received prior to the deadline.

The Respondent advised that they would not object to the request of the Complainant. However, they advised that if a difference in the substance of the two documents were identified during the course of the hearing, that they would intend to make the Board aware of their concern, and seek a ruling at that time.

The Parties proposed, and the Board agreed to consider the property assessment complaint files #73684 (i.e. for 2015 Alyth CO SE), and #73686 (i.e. for 2289 Alyth PL SE), in the course of this hearing.

The Parties advised that the evidence and argument included in the disclosure for each of the subject properties is essentially the same, and that both properties are owned by Calgary Salvage Disposal Ltd.

Given these facts, the Board decision and reasons respecting the complaint for each of the two subject properties, will be rendered in this decision letter.

Property Description:

[1] The first subject is an industrial parcel of land zoned I-G, and located at 2015 Alyth CO SE in Calgary. The parcel size is 1.73 acres, and the assessment was calculated based on land only, and application of the land value rate of \$438,750 per acre, to a total value of \$759,000(rounded). The land rate applied in the assessment, resulted from a 25% reduction from the base rate of \$585,000 per acre, due to a "shape factor" negative influence.

[2] The second subject is an industrial parcel of land zoned I-G, and located at 2289 Alyth PL SE in Calgary. The parcel size is 7.81 acres, and the assessment was calculated based on land only, and application of the land value base rate of \$585,000 per acre, to a total value of \$4,560,000(rounded). The assessment includes no reduction for negative influence.

Issues:

Although the Complainant identified market value and equity as overriding issues in the complaints, resolution of the following specific issues for each property was the focus of the hearing, and therefore the decisions of the Board.

[3] Should the assessed land rate (i.e. \$438,750 per acre) at 2015 Alyth CO SE, be reduced by a further 30%(i.e. to \$263,250 per acre), due to "environmental concerns"?

[4] Should the assessed base land rate (i.e. \$585,000 per acre), at 2289 Alyth PL SE be reduced by 25%(i.e. to \$438,750 per acre) due to either a "limited access", or a "shape factor" negative influence?

Complainant's Requested Values: \$455,423, for 2015 Alyth CO SE, and \$3,426,638 for 2289 Alyth PL SE.

Board Decision on the Assessments: The assessments are confirmed at \$759,000(rounded), for 2015 Alyth CO SE; and \$4,560,000(rounded), for 2289 Alyth PL SE.

Legislative Authority, Requirements and Considerations:

[5] The Composite Assessment Review Board(CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:

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).

[6] For purposes of the hearing, the CARB will consider MGA Section 293(1):

In preparing the assessment, the assessor must, in a fair and equitable manner, apply the valuation and other standards set out in the regulations, and follow the procedures set out in the regulations.

[7] 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:

An assessment of property based on market value:

must be prepared using mass appraisal,

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

must reflect typical market conditions for properties similar to that property.

Position of the Parties on the Negative Influence Issues**Complainant's Position on Environmental Concerns at 2015 Alyth CO SE**

[8] In support of their request for a further reduction in the assessed land rate, the Complainant submitted a Phase 2 Environmental Assessment Report, prepared by Thurber Environmental Consultants Ltd. in September of 1999 (Exhibit C1 pages 76-89).

[9] The Complainant argued that the report shows evidence of adverse environmental conditions on the property, conditions that both Parties acknowledge can have a negative impact on market value.

[10] The Complainant also submitted the 2013 Non-Residential Industrial Land Influence Adjustments document prepared by the Respondent(Exhibit C1 page 72), which indicates the adjustment for "environmental concerns" applied to the assessed land value base rate for affected land is a negative 30%

[11] The Complainant argued that this adjustment should therefore be applied in the assessment of the property at 2015 Alyth CO SE., reducing the assessed land value rate to \$263,250 per acre, and the total assessment to \$455,423.

Respondent's Position on Environmental Concerns at 2015 Alyth CO SE

[12] The Respondent noted that the 2013 Non-Residential Industrial Land Influence Adjustments document included in the evidence of the Complainant, describes the application of the negative 30% adjustment for "environmental concerns" influence as follows: "Is applied to contaminated properties where sufficient information has been provided to the Assessment business unit, to determine the nature and extent of the issue, as well as remediation cost estimates".

[13] The Respondent argued that the Phase 2 Environmental Assessment report submitted by the Complainant does not provide the "sufficient information" required to apply the negative influence adjustment. The report is some 12 years old (prepared in 1999), and no update has since been provided. The report submitted is also missing the appendices listed on the table of contents, including a site map and test hole locations, test hole logs, and laboratory results.

[14] The Respondent also noted there has been no information provided by the Complainant on the current extent of the contamination, or remediation cost estimates.

Complainant Position on the Limited Access, or Shape Factor Influence at 2289 Alyth PL SE

[15] With the aid of maps and photographs, the Complainant described the "limited access" influence on the the subject property, (Exhibit C1 pages 12-19).

[16] The evidence and argument of the Complainant focused on the access to the subject property via the controlled intersection at Blackfoot Trail and Alyth Road. The photographs indicate that the Alyth Road portion of the access is not paved, nor is there any curb and gutter in place.

[17] The Complainant also submitted evidence respecting the adjustments applied to a property located at 1250 20 AV SE, which is just west and south of the subject property, and across the rail line. This property received the maximum negative adjustment allowed (i.e. 75%) applied to the land value base rate for negative influences including limited access, environmental concerns, shape factor, and an influence not included on the document published by the Respondent (i.e. "abutting a train track"), (Exhibit C1 page 31).

[18] The Complainant argued that the subject property at 2289 Alyth PL SE shares at least a similar influence of "limited access" with the property at 1250 20 AV SE, and therefore should have the negative 25% adjustment applied in the assessment.

[19] The Complainant also submitted Property Assessment Summary Reports, photographs, outline plans, and other information on properties throughout the City whose assessments had been adjusted for various negative influences including "limited access" and "shape factor", among others, (Exhibit C1 pages 32-66). The Complainant argued that based on their review, it appears that the application of negative influence adjustments is arbitrary at best, and therefore the conditions at 2289 Alyth PL SE should qualify the property for the "limited access", or the "shape factor" adjustment.

Respondent Position on the Limited Access, or Shape Factor Influence at 2289 Alyth PL SE

[20] With the aid of aerial and other photographs, maps and illustrations, (Exhibit R1 pages 63-77), the Respondent identified three significant points of access to, and egress from, the subject property. The "limited access adjustment", "is applied to properties which cannot be easily accessed in such a way as to inhibit development." (Exhibit C1 page 72).

[21] The map on page 77 of Exhibit R1 shows that the intersections at Blackfoot Trail and 15 ST, Blackfoot Trail and Alyth RD, and 19 AV and 15 ST (from 9 AV), all serve the property.

[22] The Respondent argued if one property in the Alyth industrial area received a "limited access" negative influence adjustment, equity would suggest that all should receive it. However, the reality is the adjustment is not justified for any of the properties, including the subject.

[23] The Respondent noted that the "shape" factor, "is applied to properties which have reduced development potential or functionality as a result of the shape of the lot." (Exhibit C1 page 72).


[24] With the aid of a map (Exhibit R1 page 78), the Respondent advised that only two properties in the Alyth industrial area have had the "shape factor" adjustment applied. One is the first subject property in this complaint located at 2015 Alyth CO SE, and the other is located at 2004 Alyth PL SE, (Exhibit R1 page 83). Both are small triangular shaped parcels where reduced development potential is evident.

[25] However the subject property at 2289 Alyth PL SE is a larger almost rectangular parcel, with no clear evidence of a reduction in development potential or functionality, due to shape.

Board Reasons for Decision:

[26] Current and detailed information on the extent and cost to remediate the previously identified environmental conditions at 2015 Alyth CO SE have not been provided. Until additional information is provided, an industrial land influence adjustment to reduce the assessment for "environmental concerns", is not warranted.

[27] The property at 2289 Alyth PL SE is a large rectangular shaped parcel, well served in terms of access and egress. There is no compelling evidence to show that the "limited access", and/or the "shape factor", industrial land influence adjustment should be applied to reduce the assessment.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF September 2013.


T. B. Hudson

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 MGB Administrative Use Only

<i>Decision Nos. 73684 and 73686P-2013</i>			<i>Roll Nos. 200137099 and 200137107</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Sub-Type</i></u>	<u><i>Issue</i></u>	<u><i>Sub-Issue</i></u>
CARB	Industrial	Land only	Market Value/Equity	Negative Influence Adjustments