



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

Libtel Investments Ltd., Aviva Holdings Ltd.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER
M. Bruton, BOARD MEMBER
D. Julien, 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 2014 Assessment Roll as follows:

ROLL NUMBER: 048054118

LOCATION ADDRESS: 1904 19 St NE

FILE NUMBER: 74255

ASSESSMENT: \$1,150,000

This complaint was heard on July 8, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *K. Fong, Altus Group*

Appeared on behalf of the Respondent:

- *B. Galle, City of Calgary Assessor*

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

[1] Both Complainant and Respondent asked that portions of the argument from File 75716 be carried to this argument. For this reason, some portions of this decision document will be very similar to portions of the decision for File 75716.

Property Description:

[2] The subject property is a 2,100 square foot (sf) Mac's Convenience Store in the Vista Heights area. The Property Assessment Detail Report states it is an Automotive Services facility but that portion of the improvement no longer exists. It has been assessed using the Land Only (Sales Comparison) approach.

Issues:

Should this property be assessed using the Income approach?

Complainant's Requested Value: \$670,000

Board's Decision:

[3] The Board confirmed the property assessment at Land value of \$1,150,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Act 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).

For the purposes of this hearing, the CARB will consider the Act 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.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in the Act Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or

...

Position of the Parties

Complainant's Position:

[1] The Complainant argued that the subject property had been assessed at Land value and should be assessed using the Income Approach. The Complainant said that the current use of the land and its improvement is the best use for the property.

[2] The Complainant argued that the property should be assessed at freestanding Commercial Retail Unit (CRU) rates because the automotive use has been removed and it is now a Mac's Convenience store only. The store is located next to a strip mall, and the Complainant suggested that this was the best comparable to the subject property.

[3] The Complainant also suggested that the City of Calgary Land rates were too high and the property value was over assessed using Land value.

[4] The Complainant argued that the strip mall adjacent to the subject property was assessed at CRU rates for strip malls and was paying much lower taxes than the subject. He presented the Property Assessment Detail Report for the neighbouring property to demonstrate that the improvement was taxed at a lower rate per square foot than the subject. (C1 p26).

Respondent's Position:

[5] The Respondent explained that the City of Calgary Assessment Office prepared two assessment calculations for this property. One was based on the Income approach (R1, p8,9) and one was based on the Land value (R1, p7). The Respondent argued that the true Market

value of the property in this case is its Land value. Market value is based on the best price that can be achieved between a willing buyer and a willing seller. In this case the greatest value is in the land.

[6] The City of Calgary Commercial Land Sales 2014 study was presented to support the Land value. (R1 p62). As well the Respondent calculated the Land value for the neighbouring property to demonstrate that the Land value for that property was higher than the subject, but still lower than the assessed Income value for the strip mall. (R1, p60)

Board's Reasons for Decision:

[7] The Board considered the assessed value of the property in terms of Income approach and Land value. The Land value was higher.

[8] The Board considered the Complainant's argument that the assessment was inequitable with the assessment for the neighbouring property. Each property was assessed at the highest value it was likely to reach on the market, and the properties were not similar enough to use as comparables to each other.

[9] The Board agreed with the Respondent that in this instance a prospective buyer would be able to achieve the greatest return on the subject property from its Land value. In terms of what a willing buyer would pay to a willing seller on the open market, Land value is most reflective of Market value.

[10] The Board confirmed the assessment at \$1,150,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF August 2014.



L. Yakimchuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Rebuttal

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 office use only:

A	B	C	D	E
CARB	Retail	Stand Alone Automotive	Income approach	Land Value