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:

EVRAZ INC. NA CANADA,
(as represented by Altus Group),
COMPLAINANT

and

The City Of Calgary,
RESPONDENT

before:

R. Glenn, PRESIDING OFFICER
B. Bickford, BOARD MEMBER
Y. Nesry, 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:	**099059800**
LOCATION ADDRESS:	**6002 OGDEN Rd SE**
FILE NUMBER:	**74672**
ASSESSMENT:	**$7,090,000**

This complaint was heard on Wednesday and Thursday, the 30th and 31st day of July, 2014 at the offices of the Assessment Review Board located at Floor Number 4, at 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 4.

Appeared on behalf of the Complainant:

- D. Mewha, Agent, Altus Group

Appeared on behalf of the Respondent:

- T. Luchak, Assessor, The City of Calgary
- D. Gioia, Assessor, The City of Calgary

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

[1] There were no questions or issues of Jurisdiction or Procedure raised prior to, or during the hearing. There were no objections voiced to the composition of the Board as it was then constituted.

Property Description:

[2] The subject property is a 29.02 acre parcel of bare undeveloped land with Traffic Main, Partial Services, Abutting a Train Track and Limited/Restricted Access Influences, zoned I-G use, Non Res Zone (NRZ) 0S2, located in the community of Ogden Shops.

Issue(s) as stated by the parties:

[3] Whether or not:

(a) the subject property has been properly assessed according to the market value;

(b) the subject property has been equitably assessed;

Complainant's Requested Value: $3,549,113

Board's Decision:

[4] The Board reduced the assessment to $3,540,000.

Complainant's Position:

[5] Notwithstanding the Issue Statement as above, the real issue here was simply should the assessment of the subject property be increased from $1,920,000 in 2013, to the subject 2014 assessment of $7,090,000, when effectively, there has been no actual change in the property.

[6] The subject was formerly zoned as I-H, but in 2012, that was changed to I-G. The Complainant provided a diminishing returns calculation showing how they arrived at their requested figure. It is as follows: the first ten acres (0 to 10 acres) is valued at $645,000 per acre, with an adjustment of 100%, for a total of $6,450,000. The next 10 acres (10 to 20 acres) is valued at $645,000 per acre, with an adjustment of 75%, for a total of $4,837,500.

[7] The last portion of 9.02 acres (20 to 50 acres) is valued at $645,000 per acre with an adjustment of 50%, for a total of $2,908,950. All of the foregoing have a grand total of $14,196,450.

[8] The Complainant then suggests that the grand total must be reduced by a factor of 75%, or, down to 25% of the grand total which yields a value of $3,549,113. This reduction must be made because of the no/restricted access, no services adjustment to influences.

[9] The Complainant provided a number of comparables, most of which were smaller than the subject, with the best comparable being the 56.17 acres of vacant land which is located at 6335-57 St SE which in June of 2011 sold for $155,777.00 per acre.

[10] The Complainant indicated that they were "okay with the Cities I-G rates", because they supported the calculation set out above. The Complainant's comparables confirm that the proper influence adjustment to the base rate for no services is -50%.

[11] In summary, the Complainant relied on **CARB 2281P-2012** for the proposition that the Respondent's influence adjustments are arbitrarily and inconsistently applied amongst properties with similar characteristics. In addition, some properties with "available " services are provided allowances for "limited services" or "no services" while others are not. That decision also goes on to find other inconsistencies in the application of the words "Limited Access". They also found an inconsistent application of the term "serviced land" in the vernacular of the land development market. There, the Complainant successfully argued that land is considered serviced only when a Construction Completion Certificate is issued.

[12] Also in summary, the Complainant noted that in their comparables there were properties which had services, but were coded as "no services". Finally, they suggested that Land Use does not necessarily bring services with it and that the subject land should be coded as "no services" because the services which are allegedly regular service lines are actually main trunk lines and no regular service could be extended directly from them.

Respondent's Position:

[13] The Respondent's response in argument to the Complainant's position was that the subject property did have a service line, which meant that the subject was serviced (or at least partially serviced). They provided maps showing that there was a service line near the subject property, also demonstrating that there was limited access to the subject.

[14] On cross-examination, there was a suggestion that there was no information available as to when the service line was installed. The Respondent's position was that if there is service near the property, that is, if the service runs parallel to the property, the property is considered

to be "serviced" in the large sense.

[15] The Respondent also introduced maps into evidence showing that there was a service line that runs parallel to the subject, but on cross examination admitted that there were no tie-ins to the subject property because there were no buildings on the subject property yet.

[16] The Respondent further stated on cross-examination that if there are two services to the property, it is considered partially serviced, and if there are all three services to the property, it is considered to be fully serviced. While the Respondent was willing to provide maps, they were not willing to provide the City's Map Software.

[17] There was some protracted discussion in the hearing as to what was meant by the word "adjacent", as in the service was adjacent to the subject. Exactly what that "adjacent" distance represented was not disclosed. Once again, no one in the hearing was able to confirm the date of the installation of the service line in issue.

[18] The Board queried the Respondent as to the definition of being "adjacent" to a service line versus whether there can be a service line connection. The Respondent simply suggested that was typically not an issue. There was also some clarification as to the definition of Limited Access. In the eyes of the Respondent, Limited Access apparently meant that a property could not be accessed by a City roadway.

[19] The Respondent summarized by stating that the Complainant's comparables were not actually comparable. Further, that the onus was on the Complainant to prove that the service lines in the area were not main trunk lines. The Complainant immediately protested that information was strictly proprietary to the Respondent.

Board's Reasons for Decision:

[20] The Board carefully considered the argument and evidence of both parties. After such consideration, the Board found that there was a water line at one end of the property only. Further, there were no service tie-ins, therefore based on the case law as above set out, the subject was not serviced by the normal definition. The board ordered that the "no services" influence factor be re-instated. Further, the Board found that the "Limited Access" influence was entirely appropriate.

[21] Based on all of the foregoing the Board decided that a reduction was indicated. The Complainant convinced the Board that its calculation of the appropriate amount of the assessment was a valid summary of what the 2014 assessment should have been.

[22] Accordingly, the subject assessment is herewith reduced to the amount of $3,540,000, rounded.

DATED AT THE CITY OF CALGARY THIS 9th **DAY OF** September 2014

R. Glenn

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 Only

Appeal Type	Property Type	Property Sub-type	Issue	Sub-issue
CARB	Bare Land	Undeveloped Land	Services to property	Market Value