

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Assessment Advisory Group, COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

D. Pollard, MEMBER

T. Usselman, 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 2010 Assessment Roll as follows:

ROLL NUMBER:	091018457
LOCATION ADDRESS:	1388 42 Ave SE
HEARING NUMBER:	58198
ASSESSMENT:	358,500

This complaint was heard on the 16 day of June, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *Yuan Tao*
- *Troy Howell*

Appeared on behalf of the Respondent:

- *Don Kozak*

Property Description:

The subject property is a vacant industrial property located in the Alyth/Bonnybrook industrial district south of Ogden Road. It has a parcel size of .68 acres, triangular in shape and is zoned Industrial – Heavy (I-H).

Issues:

The Complainant identified two issues on the Complaint form:

1. The assessed value is not reflective of the property's market value.
2. The assessed value is inequitable with comparable property assessments.

Complainant's Requested Value: \$170,000

Board's Decision in Respect of Each Matter or Issue:

The Complainant did not lead evidence with respect to Issue 2, therefore only Issue 1 was considered.

Complainant's position:

The assessment on the parcel works out to \$527,000/acre. It is coded for the following influences: Abutting a Train Track, Partial Services and Shape Factor. The parcel is triangular and traversed by a train track. It is located on an undeveloped stub of 42 Ave SE away from the high-traffic, high-visibility portions of the Central industrial zone.

The Complainant presented a sale at 1009B 26 Ave SE, a 3.07 acre vacant parcel zoned Industrial General (I-G) which sold in March 2009 for \$1,600,000 or \$521,173 per acre. This parcel is significantly superior to the subject. The I-G zoning allows much more flexibility of use than I-H and the parcel is in a better location with better exposure. The 50% shape and partial services factor should be applied to the market value of \$521,000 per acre for the requested assessment of \$177,000.

Respondent's position:

Vacant land assessment in the Southeast and Central Industrial zones is based on \$1.05 million for

the first acre and \$300,000 per acre up to 10 acres, not a set value per acre for the total parcel. This method provides a better approximation of market value. The Respondent presented the sales used in the analysis to derive the rates, and the sale at 1009 26 Ave SE was included in the two sales for the Central Industrial Region. Its assessment is \$1,670,000 for an ASR of 1.04. The other sale was a 0.96 acre parcel at 1125 42 Ave SE which sold in June 2008 for \$1,350,000 assessed at \$1,000,000 for an ASR of 0.74. There was no time adjustment applied to either sale.

The subject parcel is assessed based on \$1.05 million per acre for 0.68 acres but receives a 50% allowance, 25% each for shape and partial services. The Respondent stated that the train tracks are not an influence, and highlighted the sale of a vacant 1.69 acre parcel at 2647 61 Ave SE in October 2007 for \$325,000 time adjusted to \$383,500. It receives adjustments for Shape (SPF, -25%), Limited Access/Uses (ACC, -25%) and Environmental Concerns (ENC -30). They would total 80%, however the allowances are capped at 75% and its current assessment is \$314,000 for an ASR of 0.82. This sale supports the Respondent's position that abutting the railway tracks does not influence use or market value. That sale was subject to a Restrictive Covenant by Canadian Pacific Railroad, the vendor, prohibiting any development on the lands but it was nevertheless marketable. Differences in zoning between I-H and I-G are not considered material in determining the market value of vacant land.

The Respondent stated that the 50% allowance for shape and partial services adequately adjust for the limitations of the site and no further reduction is justified..

Decision and Reasons:

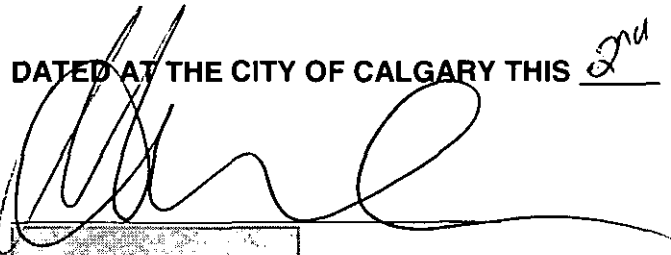
The railway tracks on the subject property traverse the site, covering a substantial portion, unlike the Respondent's comparable where the tracks border it outside of the property line. In the Board's opinion, this impacts the usability of the site, even for non-building uses such as parking and storage, to a much greater degree than the comparable. The Board also agrees with the Complainant that the two sales in the Central zone are superior to the subject in terms of access, visibility and location.

The subject property is accessed from an undeveloped stub of 42 Ave SE into the point of a triangular site, and the usability of the land area is compromised by the railroad tracks. Accordingly, an allowance for Limited Access/Uses (ACC, -25% adjustment) is appropriate. Combined with the allowances already provided for shape and partial services, the total allowance would be the maximum 75% on the full market value of the vacant parcel.

Board's Decision:

The complaint is allowed and the assessment is reduced to \$179,000.

DATED AT THE CITY OF CALGARY THIS 2nd DAY OF July 2010.



Presiding Officer

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.*