

**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(4).

between:

M. Novakovic, *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Don Steele, MEMBER

Ike Zacharopoulos, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	036118602
LOCATION ADDRESS:	910 Northmount Drive N.W
HEARING NUMBER:	56067
ASSESSMENT:	\$1,120,000

This complaint was heard on 9 day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Mr. M. Novakovic and Mr. J. Sutherland, legal Counsel

Appeared on behalf of the Respondent:

- City of Calgary – Mr. K. Gardiner, Assessor

Property Description and Background:

The subject property located at 910 Northmount Drive N.W. is an old service station site which is now used as an automotive repair shop. The assessment had been arrived at by applying a land value only approach. The 2010 assessment has increased by 60% over the previous year and the Complainant suggests that contamination on the site would significantly impact its market value.

Issues:

1. Did the City of Calgary provide an adequate and timely response to the Complainant's request for information under section 299 of the Act?
2. Is the subject property assessed in excess of its market value as of July 1, 2009 as a result of the value attached to the land component being over assessed?

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

1. The City of Calgary did provide an adequate and timely response to the Complainant's request for information under section 299 of the Act.
2. There is no evidence before the CARB to show that this property has being assessed beyond its market value.

Issues and Findings

1) Request for Information – Section 299 of the Act

On February 2, 2010 the Complainant had made a written request to the City of Calgary asking for sufficient information pursuant to section 299 of the Municipal Government Act (Act) to show how the Assessor prepared the assessment for the subject property.

The City provided their response to this request in the form of an assessment report which provided details respecting the land size, the value determined for the land, no value for the improvement and that no plus or minus adjustments had been made for influences on the market value of the subject. Unfortunately the Complainant did not recognize this document as being the City's response to their request for information. In their testimony the Complainant indicated that the important information required for their case was to know how the Assessor had dealt with the pollution or contamination on the site when developing the assessment.

The document provided by the City did indicate that no recognition had been made for any special influences and this would include contamination. Further the fact that the assessment was arrived at through a simple multiplication of the land rate times the area of land resulted in the City's information being very brief. While the actual value of the land rate was not shown specifically it could have been easily determined by dividing the area of land into the assessment amount. Based on the Board's review of this matter it was decided that the City had fulfilled its obligation respecting section 299 of the Act.

2) Market Value of the Property

The notice of hearing for the subject property clearly indicates that the Complainant must disclose any evidence it wishes to rely upon at the hearing on or before May 27, 2010. The Complainant's evidence was received by the Respondent and the Assessment Review Board (ARB) on June 22, 2010 and therefore in accordance with section 9(2) of Matters Relating to Assessment Complaints Regulation (MRAC) the CARB could not hear the Complainant's evidence. The Board however did consider Addendum "A" of the complaint and the Complainant's testimony about the issues raised therein. The Complainant argued that some preliminary investigation had been done by Imperial Oil with respect to the contamination issue and the City of Calgary requires a development permit every five years because of the pollution in order for the current business to continue to operate. The Complainant stated that the City of Calgary restricts the use of the property to its current use and no changes or development on the site is permitted. Further any contamination concern will reduce the value of the property and it is obvious that the Assessor has not taken this fact into account in arriving at the assessment. The Complainant also addressed the large increase in the assessment for 2010 suggesting that there is not support for a 60% increase based on market change. The Complainant referred to 900 Northmount Drive which is directly across the street from the subject and is assessed at only \$454,500 compared to the subject assessment of \$1,120,000. The Complainant argued that this comparable is only slightly smaller than the subject and is not polluted therefore the assessment should be higher than that of the subject.

The Respondent indicated that prior to this complaint no information has been brought to the attention of the Assessment Unit that this property may have potential contamination. In order for the Assessor to make any allowances for contamination the property owner must bring forward a phase 2 or phase 3 report on the existence of contamination. The Assessor can not make allowances without substantive evidence on this matter. To date no such evidence has come forward. With respect to the property at 900 Northmount Drive N.W., an error had been discovered respecting the assessment and the assessment has been corrected to \$1,700,000.

The CARB is not prepared to make any adjustment to the subject assessment based on the contamination argument without the appropriate reports showing professional investigation of this matter along with estimates regarding remediation costs. With regards to the single comparable cited by the Complainant relating to their argument of equity with the property at 900 Northmount Drive N.W. it appears that the revised assessment for that property would support the assessment

of the subject. The CARB therefore has insufficient evidence on which to base any change to the assessment of the subject. Despite the lack of evidence in this case the Board strongly recommends that the Assessor review this assessment in light of the issues raised in this complaint.

Decision Summary

There was very little evidence before the CARB in this case. There may be an issue with respect to contamination however nothing to substantiate that fact or to quantify the impact this may have on market value was before the Board. There was no market evidence and the one equity comparable had been reassessed to a value in excess of the subject assessment. The CARB therefore denies the complaint and confirms the assessment at \$1,120,000.

It is so ordered.

No costs to either party.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF August 2010.


for **Paul Petry**
Presiding Officer

PP/kc

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.*