

**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-26.1, Section 460(4).

between:

622439 Alberta Inc, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K Williams, PRESIDING OFFICER

Ian Fraser, MEMBER

Peter Charuk, 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: 118003409

LOCATION ADDRESS: 6630 – 90 Ave SE

HEARING NUMBER: 57084

ASSESSMENT: \$1,750,000

This complaint was heard on 5 day of August, 2010 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:

- Ken Mostowich

Appeared on behalf of the Respondent:

- Jason P Lepine

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

No Preliminary, Procedural or Jurisdictional Matters

Property Description:

A 4.88 acre parcel of unserviced land located adjacent to 90 Ave SE. The zoning on the land has recently changed from I4 to Industrial – General (IG). On the land are 3 buildings with a total rentable area of 8,009 square feet and a retention pond which takes up approximately 15% of the land. The land is utilized for heavy industrial purposes which provide services for a heavy industrial user on adjacent land.

Issues:

The use and condition of the land and buildings have remained unchanged for a number of years. As well the assessed value has been unchanged since 2007. The current assessed value is unfair and not equitable

Complainant's Requested Value:

\$732,000

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

Complainant and Respondent presented a wide range of relevant and less relevant evidence in respect of the issues.

Complainant

The complainant argued that since Assessment Review Board ("ARB") Board Order 0433/2007 had established the assessed value at \$732,000 there has been no change in the use or development on the land. The evidence include photographs of the industrial buildings and trailer on the land, schematic of the layout of the buildings on the land, a drawing showing the potential location of a new 90th Ave SE intersection and a copy of ARB 043/2007.

The complainant reported the land has no direct access, no services except power and natural gas and uses are limited by its proximity to the Western Irrigation canal. Further the buildings are old in poor structural condition and are limited to their current use for storage and as a paint shop. A retention pond occupies 15% of the land and the potential development of a 90th Ave intersection will reduce the usable footprint of the land. Currently roughly only 40% of the 4.88 acres is useable and the buildings are of no value. The Complainant provided no data for comparables in the vicinity of the subject property.

In summary the complainant argued that the land has been unchanged since 2007 and should be assessed at the same value.

Respondent

The Respondent advised the CARB that the zoning on the land has changed from I4 to Industrial – General (IG). This is a major change as the site coverage which was limited to 10% under the I4 zoning now has no limitation on site coverage with the Industrial – General (IG) zoning.

The evidence package contained details on a number of sale comparables. The Respondent presented comparable transactions in the immediate area for land as well as land and buildings. It was argued that an analysis of the comparables supports the assessed value for the subject as presented in the Assessment Explanation Supplement on page 10 of the evidence.

Board Decision:

Based on the evidence which included the current state of the land and the buildings, the change in the zoning and market comparables the CARB reduced the assessed value to \$1,450,000.

Board's Decision:

Assessment Revised to \$1,450,000

DATED AT THE CITY OF CALGARY THIS 15 DAY OF September 2010.



Earl K Williams
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.*