

**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:

F.W. Wesseling, PRESIDING OFFICER

S. Rourke, MEMBER

A. Wong, MEMBER

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

ROLL NUMBER: 201112042

LOCATION ADDRESS: 3613 – 63 Av NE

HEARING NUMBER: 58790

ASSESSMENT: \$ 5,460,000.00 (as amended)

This complaint was heard on 12 day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- R.S. Powell

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

The Respondent raised 2 items:

1. The issue in terms of square footage was not identified on the complaint form.
2. Request for the award of costs in the amount of \$5500.00 as the complainant had adequate time to resolve the issue prior to the ARB hearing.

The Board recessed and reviewed the items raised by the respondent. While the original complaint form in Section 4 only had # 3 checked, in Section 5 Reasons for the Complaint the respondent referenced a general note that building size was at issue. Based on that, the Board agreed to proceed with the hearing and indicated that the issue related to cost would be dealt with in the final Board decision.

Property Description: The property is located in the Westwinds industrial area, south east of the Calgary International Airport. The property consists of 2.71 acres and contains an industrial building built in 2006/2007. The property is designated Direct Control(DC) district in the City of Calgary land use Bylaw.

Issues: The Respondent indicated that the only issue for a Board decision is related to building size.

Complainant's Requested Value: \$ 5,145,248.00

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

Complainant's position: The complainant reported that the sq footage used by the City of Calgary is erroneous and should be 45,533 sq ft instead of 48,239 sq ft. In support of their position the complainant presented information generated by Google maps which indicated the building footprint to be 38856. In addition, an Industrial Transaction Summary by Realnet was produced which reported the building size to 45,533 sq ft. No further evidence or measurements were provided.

Respondent's Position: The respondent provided two sets of information related to the building size. Firstly the assessor reported having conducted a personal measurement of the building which indicated 39,140 sq ft on the main floor and 9099 sq ft in mezzanine space. This totals to 48,239 sq ft in total building size. In addition the respondent produced a copy of the "Assessment Request for

Information" prepared in April 2010 by the building owner which indicated the building size at 48,500 sq ft.

Board's Decision: Upon receiving the verbal and written evidence provided by the parties regarding the issues raised, the Board found that the complainant failed to make substantial argument in terms of building size and in turn to reduce the assessment. The Board finds that the building size is 48,239 sq ft and confirms the assessment at \$5,460,000.00.

Further the Board did not award cost to the respondent

Reasons: The data provided by the complainant with regard to building size was lacking while the respondent's data was more conclusive. This issue could have been resolved by the parties prior the hearing and the Board is concerned that this type of minor issue is to be resolved by the ARB without some evidence by either party that a resolution had been sought prior to the Board's involvement.

In terms of the request by the applicant for costs to be awarded, the Board, after reviewing Section 468.1 of the Municipal Government Act and in particular Section 52(1) and (2) of AR 310/2009 Matters Relating To Assessment Complaints Regulation, determined that there had been no abuse of the complaint process by the respondent.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF August 2010.


Frank W. Wesseling
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.*