

**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:

Octagon Properties Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Wood, PRESIDING OFFICER

I. Zacharopoulos, MEMBER

D. Steele, 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: 078075207

LOCATION ADDRESS: 1212 34 AVENUE SE

HEARING NUMBER: 56081

ASSESSMENT: \$8,730,000

This complaint was heard on 13th day of August, 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. G. Schell

Appeared on behalf of the Respondent:

- Mr. R. Luchak

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

The Respondent raised a preliminary matter at the commencement of the hearing. He indicated that the Complainant failed to file the full appraisal at least 42 days in advance of the hearing and therefore the Board should not hear it in accordance with *Matters Relating to Assessment Complaints Regulation 310/2009 ("MRAC")*. The Complainant stated that he provided the Respondent with the Executive Summary from the appraisal report and examples of direct sales comparables in accordance with the disclosure requirements. He indicated that in speaking with an assessor earlier in the year, he was advised to bring the full appraisal to the hearing.

The decision of the Board was to allow only the Executive Summary and the sales comparables that were disclosed to the Respondent in advance of the hearing in accordance to *MRAC*.

Property Description:

The subject property is a multi building site comprised of four single tenant warehouses on an 8.64 acre site in Highfield Industrial. The first warehouse has 46,480 SF of rentable area, built in 1962; the second has 1,920 SF, built in 1957; the third has 1,710 SF, built in 1974; and a fourth building has 3,102 SF, built in 1998.

Issues: (as indicated on the complaint form)

1. This is based on an appraisal which states the value is \$8,200,000.

Complainant's Requested Value: \$8,200,000

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

The Board notes that the reason for appeal is stated on the complaint form, as follows:

This is based on an appraisal which states the value is \$8,200,000.

The Complainant submitted an Executive Summary from an appraisal that he obtained in September 2009 (Exhibit C1) and a series of sales comparables (Exhibit C2). The Board notes that the Executive Summary is dated after the July 1, 2009 valuation date.

The Board placed little weight on the Executive Summary as it is opinion evidence and it did not include the full appraisal report.

It was discovered mid way through the hearing that the Complainant's sales comparables did not form part of the appraisal report but were comparables that the Complainant had researched. The Board finds nine of the ten comparables were sales that occurred after the valuation date of July 1, 2009. Sales that occur after the valuation date are considered post facto. The Board finds that the Complainant failed to show a relationship between the sales comparables and the subject property in order to establish a value.

The Board placed little weight on the Complainant's sales comparables.

The Complainant provided verbal testimony regarding the physical condition of the subject property. He indicated that one of the buildings was demolished and another was a shed. The assessor had not inspected the property but he indicated a site inspection would be undertaken before next year's hearing season.

The Board also notes that the Assessment Explanation Supplement (Exhibit R1 page 14) does not reflect a showroom that is referenced in the Executive Summary (Exhibit C1 page 2).

The Board finds both parties' evidence is inconclusive as to what exactly exists on the subject site.

However, as the onus is on the Complainant to bring the assessment into question, it is his responsibility to prove that the site had changed from what is reflected on the Assessment Explanation Summary. The Complainant must, firstly, indicate on the complaint form that this is an issue, and secondly, disclose evidence in support of this issue to both the assessor and the Board in accordance with *MRAC*. This was not done in this instance.


The Board placed little weight on the Complainant's evidence regarding the physical condition of the property.

In this case, the Board finds that the Complainant failed to provide sufficient evidence which would bring the assessment into dispute.

Board's Decision:

The decision of the Board is to confirm the assessment for the subject property at \$8,730,000 for the 2010 assessment year.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF AUGUST 2010.



Lana J. Wood
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.*