

**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 MV Advisors Inc – O/A Assessment Advisory Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***D Trueman, PRESIDING OFFICER
Y Nesry, Board Member
D Julian, Board 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: 119006708

LOCATION ADDRESS: 8815 – 48 Street SE

HEARING NUMBER: 60242

ASSESSMENT: \$2,190,000

This complaint was heard on 14th day of September, 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:

- *Troy Howell*

Appeared on behalf of the Respondent:

- *Ian McDermott*

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

There were no preliminary, procedural or jurisdictional matters before this hearing.

Property Description:

The subject property is a parcel of industrial land, zoned I-G, consisting of 4.75 acres located within the South Foothills industrial neighbourhood in southeast Calgary. The property is improved with a trailer and an outbuilding of negligible value.

Issues:

The issue before the board relates to the absence of a standard assessment discount which the city applies to partially serviced industrial properties.

Complainant's Requested Value: \$1,649,666

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

Complainant position

The Complainant presented a package of material, exhibit C1, which includes the city assessment summary report, plat maps, aerial photographs, a page confirming a 25% City discount for partial services, neighbourhood maps and property tax bills for neighbouring properties which indicate local improvement and special tax charges. There was also an Avison Young, Calgary Industrial Market Report for spring 2009. Mr. Howell pointed to his neighbourhood map on page 8 which delineates the subject property together with depictions of utility lines consisting of a storm sewer and water main. He contended that given the absence of power, natural gas and sanitary sewer he should be entitled to the 25% partial services adjustment which is prescribed by the city for industrial properties without full servicing. He further directed the Board to recent ARB decisions number 0541, 0679, 0683, 0548, 0578, 0580 and 0570 which he said outlined recent Board decisions confirming that similar properties receive partial service discounts. On questioning the complainant was unable to provide cost to cure information with respect to the absence of his sanitary sewer or other utilities.

Respondent position

The respondent presented his assessment brief, exhibit R 1, which consisted of legislative authority, valuation methodology, burden of proof rulings, photographs and a chart of comparable vacant land sales. The respondent pointed out that the subject property in fact benefited from the presence of a storm sewer and water main located at its front property line. On questioning he presented testimony that there was no difference in the sale price of parcels which exhibited either the absence or presence of a sanitary sewer. The respondent pointed to his chart of vacant land sales, R 1, page 15 and drew the panel's attention to sale number four at 6220 - 86 Avenue SE. This was of similar zoning, in the same neighbourhood and a recent sale at the rate of approximately \$340,000 per acre. He also pointed out sale #1 at 8490 44th St. SE. which is located very close to the subject, was a December 08 sale at approximately \$620,000 per acre. These two sales bracket the size of the subject property and confirm the generally accepted opinion that unit values decrease with increasing property size. He contended that the subject assessment should thus be confirmed at a value of roughly \$461,000 per acre. On questioning the respondent indicated his page 14 exhibit R 1 which indicates an assessed value for the subject improvements of \$23,219.

Board Findings:

The board finds that the subject property improvements are negligible at roughly \$23,000 and that this assessment amount was agreed to by the complainant. Therefore, the subject property may reasonably be compared to unimproved or vacant land sales.

Board's Decision in Respect of Each Issue:

It does not seem reasonable to the Board that industrial land without the benefit of sanitary sewer will sell for a similar price to property which enjoys the advantages of this municipal utility. In this regard the Board examined closely former recent Board decisions which examined this issue. It was found in ARB 0541 that the chart of sales comparing the fully serviced Foothills neighbourhood to the partially serviced South Foothills neighbourhood contained evidence of sales which were of improved property. The Board was able to make this determination from the columns entitled "AYOC" (approximate year of construction) and "rentable area". It is flawed reasoning to compare improved property with unimproved property, such as the subject, and therefore ARB 0541 is not instructive. All additional Board Orders dealt with appealed improved property and in the opinion of the panel, unless a specific amount attributable to sanitary sewer utility value had been determined, then there was nothing in these decisions that could be applied to the subject appeal. It was determined by the panel that in order for the Complainant to succeed in this appeal it would have been necessary for him to supply direct evidence of the discount applicable for the absence of sanitary sewer, power natural gas etc. The panel agreed with the Respondent that the chart of sales evidence presented was the best evidence before the Board with respect to the market value of the subject property.

Board's Decision:

The assessment is confirmed at \$2,190,000.

DATED AT THE CITY OF CALGARY THIS 24th DAY OF September, 2010.


D. Trueman
Presiding Officer

DT/sd

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.*