

**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:

Mahe Investments Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, Presiding Officer
K. Coolidge, Board Member
D. Pollard, Board 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: 200481133

LOCATION ADDRESS: 4343 – 122 Avenue SE, Calgary AB

HEARING NUMBER: 56975

ASSESSMENT: \$1,050,000

This complaint was heard on the 20th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- Mr. And Mrs. Maher – Brent Johannesen provided evidence

Appeared on behalf of the Respondent:

- T. Woo

Property Description:

A 1.0 acre, I-G (Industrial General) designated industrial lot located in Southbend Business Park in southeast Calgary. The lot is fully serviced but there are no buildings situated on it.

Issues:

The Complainant raised the following matters in section 4 of the complaint form: *Assessment amount (No. 3 on form)*

The Complainant also raised the following specific issues in section 5 of the Complaint form:

"The assessed value is significantly higher than fair market value of the property. There has been efforts to sell the property in the \$600,000 per acre range without receiving any Offers. The City of Calgary has similar land available for sale at \$525,000 per acre within a minutes from the subject."

Issue: Market Value

Complainant's Requested Value:

\$600,000

Board's Decision in Respect of the Issue:

Mr. Johannesen is a real estate agent employed by DTZ Barnicke. He has had the subject lot listed for sale since early 2009. The initial asking price shown on a property listing sheet was \$700,000. The lot had been purchased in April 2007 for \$650,000. In September 2009, after the death of the principal owner, the land transferred in a non-arms length transaction to the current owner (Maher Investments Ltd.) with a stated value of \$700,000. (It is noted that this transfer occurred after the effective valuation date of July 1, 2009).

A price list for industrial lots being marketed by The City of Calgary in Eastlake Industrial was in the Complainant's evidence package. Prices were effective January, 2009. In the price list, a 0.86 acre lot was priced at \$481,600 (\$560,000 per acre) and a 1.08 acre lot was priced at \$594,000

(\$550,000 per acre). 19 other lots in the list were all larger than the subject, ranging in size from 1.64 acres to 5.78 acres. Assessment records for the two smaller lots were provided. They indicated that the 2010 assessments on these lots were based on a rate of about \$620,000 per acre.

Sales summary reports were presented for several other land sales that occurred in 2008 and 2009 but these were not dealt with to any extent in the testimony.

Mr. Johannesen testified that no offers had been received for the subject lot. In his opinion, the land would bring no more than \$600,000, however, it was not made clear whether that price was estimated as at the assessment date of July 2009 or at the date of the hearing (August 2010). One possible reason for the lack of market interest is the long-narrow shape of the lot. When questioned about price versus lot size, Mr. Johannesen responded that, in his experience in the current market, there is little or no difference in price per acre for serviced industrial land whether the size is one acre or ten acres.

Several tables of land sales data were provided by the Respondent in support of the assessment. One of the tables contained data on four land sales. One of those was in the South Foothills area, one was in Highfield and two were in Valleyfield. Sales occurred between the dates of January and December 2008. Lot sizes were from 0.56 acre to 1.30 acres and prices were from \$619,707 to \$1,406,250 per acre.

Another table presented data on four sales (including the aforementioned Highfield and Valleyfield sales) where the lot size was less than one acre. Two others in this table were lots in the northeast Calgary industrial region. The sizes varied from 0.558 acre to 0.96 acre and prices were from \$1,089,450 to \$1,693,023 per acre.

The intent of these two tables was to show that prices were very high for lots containing up to 1.0 acre. This was the support for the City adopting the formula for land assessment in the southeast industrial region (Except for Dufferin) that is based on a rate of \$1,050,000 for the first 1.0 acre of a lot plus \$300,000 per acre for the remainder of the lot if it contains more than one acre. The subject lot is 1.0 acre in size so it was assessed at \$1,050,000.

A table of sales data for 17 lots in Dufferin was provided in the Respondent's evidence. For parcels from 0.865 acre to 9.503 acres, 2007-2008 sales indicated prices from \$524,834 to \$768,180 per acre with most in the \$610,000 to \$660,000 range. The intent of this data was to show that Dufferin is a unique industrial subdivision. The Respondent explained that prices for Dufferin land are set by The City of Calgary, the land developer. Part of the reason for the pricing is that there is a 36 month building commitment for any purchaser.

Mr. Johannesen pointed out that there is confusion between Eastlake Industrial and Dufferin Industrial. Perusal of city maps indicates that while the City's Corporate Properties unit markets the land as Eastlake Industrial land, the Assessment business unit classifies it as Dufferin. The addresses in the Corporate Properties marketing material do match with the Dufferin sales data in the Respondent's brief.

The Respondent stated that the shape of a lot or parcel is not a factor in calculating assessments.

Mr. Johannesen concluded by stating that, in his opinion, Southbend is very similar to Dufferin/Eastlake. The building commitment stipulation for purchasers is not always enforced and the time period can easily be extended. Southbend land is not comparable to "inner city" located

lands such as those in Highfield, where one of the Respondent's sales is located. His final conclusion was that there is no evidence to support the City's model wherein the first acre of a lot or parcel is assessed at a higher rate than the balance of the lot or parcel and that there was no reliable evidence to support the \$1,050,000 per acre rate for the first acre. That valuation method penalized one acre lots, in his opinion.

Findings

In view of the above considerations, the CARB finds as follows:

The CARB does not find the Respondent's sales to be comparable to the subject. Locations are vastly different in some cases. The sale with the nearest location to the subject and with a sale date nearest to the valuation date was in South Foothills and its price was \$619,707 per acre for the 1.30 acre lot.

Evidence regarding the first acre of a lot or parcel being over three times more valuable than each additional acre was unconvincing. Sales of lots with less than acre in area did not convince the CARB to accept the concept which forms the basis of the assessment formula.

There was no convincing evidence to show that Dufferin (Eastlake) was not comparable to Southbend. The two subdivisions adjoin each other. Lot sizes and permitted and developed land uses are the same.

There was only the opinion of the Complainant witness that the subject should be valued at \$600,000. While there was evidence of sales at prices around that level, the CARB finds that rates from Dufferin are more indicative of the industrial land market in the area and adopts a rate of \$620,000 per acre. That rate is equitable with the assessment base rate applied to Dufferin lots of similar size to the subject.

Board's Decision:

The 2010 assessment is reduced from \$1,050,000 to \$620,000.

It is so ordered.

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



W. Kipp
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.*