

**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, Section 460(4).

between:

1234389 Alberta Ltd. COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, A. Zindler
Board Member 2, I. Zacharopoulos***

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: 092035005

LOCATION ADDRESS: 4207 – Ogden Road S.E., Calgary, Alberta

HEARING NUMBER: 56473

ASSESSMENT: \$1,940,000

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

Appeared on behalf of the Complainant:

- *M. Jeha, & W. Osman*

Appeared on behalf of the Respondent:

- *P. Sembrat*

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

As a preliminary matter, it was noted that the Complainant had erroneously checked off the wrong "box" under Section 4 of the Complaint Form. With no objections from the Respondent, the error was corrected at the hearing.

Property Description:

The property is a single tenant industrial facility, built in 1966 in the community of Ogden. The building is 12,680 sq. ft., set on a 0.58 acre site. The site coverage is 49.86 per cent.

Issues:

The matter under complaint is the assessment amount. During the hearing, it became evident the Complainant was basing its complaint on the question of equity in relation to neighbouring properties.

Complainant's Requested Value: \$1,400,000

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

The current assessment calculates to \$153.00 per sq. ft. of building, overall.

The Complainant submitted two equity comparables for the Board's consideration. Before dealing with the comparable evidence however, the Board will first outline the more important salient facts presented by the Complainant.

The subject site is triangular in shape and lies on the south side of the intersection between Ogden Road and 17A Street SE. The City's waste treatment plant is in close proximity to the south of the subject location, and the Complainant submits that the odours from the plant are offensive. In this location, Ogden Road has a concrete median divider that prevents left hand turns. As such, direct access to the subject is limited to south(east) bound traffic on Ogden Road. The building placement limits side yard space to the extent that there is virtually no site access from 17A Street, except for one overhead door into the building. Front yard dimensions are too small to accommodate large truck traffic off Ogden Road. A City bus stop along the front property line further impairs traffic movement.

The Complainant argues that the site's inefficient shape and lack of access limits the rentability of

the property, and hence has a detrimental effect on market value.

In response, the Respondent agreed that a downward adjustment of 10 percent might be appropriate to account for the restricted access. However, the Respondent was of the position that the site's triangular shape did not affect the property's utility, and therefore no shape adjustment was, or should be, allowed.

Both the Complainant and the Respondent presented the same two equity comparables, both of which are adjacent to or very near the subject. In tabular form, these are presented alongside the subject as follows:

<u>Address</u>	<u>Subject</u> <u>4207</u>	<u>#1</u> <u>4211</u>		<u>#2</u> <u>4227</u>	
		Complainant	Respondent	Complainant	Respondent
Bldg. Size (sq. ft.)	12,680	16,000	16,000	16,201	15,711
Land Size (sq. ft.)	25,432	41,493	41,382	41,658	41,818
Site shape	triangular	slightly irregular Readily usable		rectangular	
Year Built	1966	1982		1966	
Assessment	1,940,000	2,390,000		2,350,000	
Assessment per sq. ft.	\$149.80	\$149.33	\$150.00	\$145.05	\$150.00

Because of building size differences between the two presentations, the reflected assessments varied slightly from the amounts put forward by the Complainant. However, it is the Respondent's position that all three properties are assessed at the same per sq. ft. amounts, and therefore the assessments are equitable. The Board does not agree.

Board's Decision:

The Board agrees with the Complainant with respect to the site's inefficient shape and lack of access. The Respondent agreed that a downward adjustment of 10 per cent would probably be appropriate to account for the restricted access. As far as the shape is concerned, neither party presented any evidence that would assist the Board in quantifying an appropriate adjustment for shape. Left to its own resources, this Board concludes that a 25 per cent downward adjustment would adequately reflect the adverse affect that the site's triangular shape exerts on the property's utility, and hence rentability.

The assessment is reduced to \$1,260,000.

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


J. Zezulka
Presiding Officer

List of Exhibits

C-1; Evidence submission of the Complainant
R-1; City of Calgary Assessment Brief

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.*