

**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:

***United Acquisition II Corp, COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***F. Wesseling, PRESIDING OFFICER  
I. Zacharopoulos, MEMBER  
A. Wong, 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	Location Address	Hearing Number	Assessment
200919884	10 Silverado Bv SW	56766	\$ 7,640
200920452	20 Silverado Bv SW	56773	\$263,500
200920478	11 Silverado Bv SW	56775	\$ 7,810
200920890	21 Silverado Bv SW	56778	\$ 87,000
200920908	19055 Sheriff King St SW	56779	\$143,500
200967073	55R Silverado Range Ht SW	56782	\$320,000
201051976	19075 Sheriff King St SW	56783	\$505,000
201057940	175 Silverado Skies Li SW	56784	\$197,500
201108149	105 Silverado Wy SW	56785	\$525,000
201162120	170 Silverado Skies Li SW	56786	\$127,000
201204492	78 Silverado Skies Wy SW	56788	\$357,000
201205010	77 Silverado Skies Wy SW	56789	\$ 29,000

This complaint was heard on the 29th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *G. Barron, United Communities*
- *S. McKenna, United Communities*
- *R Hutchinson, Altus Group*

Appeared on behalf of the Respondent:

- *T. Johnson*

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

N/A

**Property Description:** These 12 properties under assessment appeal are all linear parks in the Silverado subdivision. The Silverado subdivision is partially developed and is located immediately to the North of the Spruce Meadows Equestrian facility. These lands are currently still held in title by the developer, however they will be turned over to the resident's association in the near future. These parks are improved with walkways/pathways, landscaping, benches, etc. The City of Calgary Land Use Bylaw classifies these properties as Direct Control (DC) district.

**Issues:** The Complainant raised the following matters in Section 4 of the Assessment Complaint form: Assessment amount and Assessment class.

A large number of issues were outlined in Section 5 of the complaint form. Presentations of the Complainant and Respondent were limited to:

- Assessment overstated as the parcels cannot be developed or used to generate revenue.

**Complainant's Requested Value:**

Assessment value be \$1.00 for each parcel.

**Information Provided in Respect of Each Matter or Issue:**

**Complainant's position:** The subject parcels are part of a comprehensive park system in the Silverado subdivision. These linear parks will be transferred to the Silverado Residents Association at some point in the future for \$10.00. An agreement that would complete that transfer was submitted for the Board's consideration however this was not finalized in the 2009 tax year. These linear parks are classified Direct Control in the Calgary Land Use Bylaw. The Direct Control guidelines do not allow for the development of the linear park parcels. The Complainant maintained that the parks were in fact a requirement to obtain City planning approvals. Over time the residents association will be owning and maintaining these linear parks. Similar situations exist in other subdivisions, Auburn Bay and Discovery Ridge were highlighted.

The Complainant took the position that the value created by the existence of the linear parks is reflected in the value of the adjacent residential properties. These properties have a higher

assessment although no statistical data was provided to support that statement. The Complainant provided summaries on previous cases dealt with by the courts and Municipal Government Board (MGB).

**Respondent's position:** Background information was provided to the Board as to how these types of parcels are assessed. Privately owned park parcels are assessed at \$20,000.00/acre up to 0.25 acre in size. Any parcels beyond that size are assessed at \$125,000.00/acre. This is a policy decision and limited information was provided as to how this was arrived at. The City's valuation of these properties is based on the "principle of substitution":

- The price of acquiring an equally desirable property substitute property tends to set property value. The principle of substitution recognizes that buyers and sellers of real property have options, i.e. other properties are available for similar uses. The substitution of one property for another may be considered in terms of use, structural design, or earnings..... On the other hand, the cost of acquisition may be the price of acquiring an existing property of equal utility, again assuming no undue cost due to delay; this is the basis of the direct comparison approach (The Appraisal of Real Estate, Second Canadian Edition p35).

The Respondent provided information on assessment of similar park properties in other residential subdivisions and the SE and SW. In addition, previous decisions by the MGB concerning similar complaints were summarized for the Board's consideration.

Once the park system is owned and maintained by the residents association there are mechanisms available to apply, prior to Nov 30 each year, for tax exempt status.

#### **Board's Decision and Reasons.:**

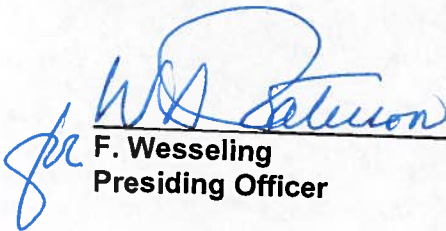
Upon reviewing the verbal and written evidence provided by the parties, the Board considers that the Complainant's position had merit from an equity perspective as the Board could not determine a market justification for some properties being assessed at \$20,000.00 per acre while others are assessed at \$125,000.00 per acre. The Board determined that the practice of assessment used by the City on these types of park parcels is somewhat arbitrary and inconsistent. It was noted that the 12 properties reviewed by the Board that some properties over .25 acres are assessed at \$20,000.00 per acre while another parcel, less than .25 acres, appears to be assessed at \$125,000.00 per acre. The Board acknowledges that the subject properties have a restricted land use and that the parcels will not be exposed to a competitive market at the time of sale; however this does not result in the linear park parcels having a nominal value as suggested by the Complainant. The Board does not accept the agreement with the resident's association as an appropriate indicator of value as it is a non arms length agreement.

The Board finds that these parcels are to be assessed at the residential classification and establishes the assessment for the individual parcels as follows:

File Number	Roll Number	Address	Size (acs)	Valuation Rate /Acre	Assessment
56766	200919884	10 Silverado Bv. SW	0.38	\$20,000	\$7,640
56773	200920452	20 Silverado Bv. SW	2.11	\$20,000	\$42,200
56775	200920478	11 Silverado Bv. SW	0.39	\$ 20,000	\$7,810
56778	200920890	21 Silverado Bv. SW	0.70	\$20,000	\$14,000

56779	200920908	19055 Sheriff King St. SW	1.15	\$20,000	\$23,000
56782	200967073	55R Silverado Range Ht. SW	2.56	\$20,000	\$51,200
56783	201051976	19075 Sheriff King St. SW	4.04	\$20,000	\$80,800
56784	201057940	175 Silverado Skies Li. SW	1.58	\$20,000	\$31,600
56785	201108149	105 Silverado Wy. SW	4.20	\$20,000	\$84,000
56786	201162120	170 Silverado Skies Li. SW	1.02	\$20,000	\$20,400
56788	201204492	78 Silverado Skies Wy. SW	2.86	\$20,000	\$57,200
56789	201205010	77 Silverado Skies Wy. SW	0.24	\$20,000	\$4,800

DATED AT THE CITY OF CALGARY THIS 4 DAY OF November 2010.

  
**F. Wesseling**  
 Presiding Officer

The Board was presented with the following submissions:

Complainant: C1 2010 Property Tax Appeal Silverado Residents Association Park System.

Respondent: R1 Assessment Brief prepared by City of Calgary Assessment Business Unit.

*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.*