

**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-26.1, Section 460(4).

between:

*Assessment Advisory Group*

and

*The City Of Calgary, RESPONDENT*

before:

*Board Chair, J. Zezulka  
Board Member S. Rourke  
Board Member M. Peters*

These are complaints to the Calgary Assessment Review Board in respect of Property/Business assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as outlined following. With the agreement of all parties, the complaints were dealt with concurrently.

**LOCATION ADDRESS:** 1060 – McTavish Road  
1190 - McTavish Road

**HEARING NUMBER:** 58186 and 58188

<b>ASSESSMENTS:</b>	<b><u>File No.</u></b>	<b><u>Roll Number.</u></b>	<b><u>Assessment</u></b>
58186	.....	902001809.....	1,440,000
58188	.....	902004407.....	1,340,000

This complaint was heard on 25 day of October, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *Assessment Advisory Group ( Mr. T. Howell )*

Appeared on behalf of the Respondent:

- *Mr. K. Buckry*

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

At the request of both parties, the two complaints were heard together in a single hearing with common arguments and common evidence.

**Property Description:**

The properties are two adjacent industrial properties, briefly described as follows;

1060 – McTavish Road;

Land size; 1.31 acres

Building; A single building, classified as a Single Tenant Aviation Hangar, with a footprint of 15,737 s.f. (assessed). The net rentable area was given at 16,817 s.f. (assessed).

1190 – McTavish Road

Land size; 1.32 acres

Building; Two buildings, classified as Single Tenant Aviation Hangars, comprising a total of 16,253 s.f. (assessed).

**Issues:**

The single issue in this complaint is the building sizes, which the complainant contents are incorrect, resulting in incorrect assessments.

**Complainant's Requested Value:**

<u>File No.</u>	<u>Roll Number.</u>	<u>Requested Amount</u>
58186 .....	9020011809.....	1,050,000
58188.....	902004407.....	610,000

**The Evidence:**

In support of their argument, the Complainant presented the 2010 business assessment for the subject property, that showed a building area of 11,807 s.f. for 1060 McTavish Road, and 6,568 s.f. for 1190 McTavish Road. The Complainant also submitted the 2010 Property Assessment notices, and a few aerial photographs of the subject properties. This represented the sum total of the evidence submitted by the Complainant.

The Complainant did not measure the buildings.

In support of his position, the Respondent presented the Board with some site notes provided by the owner, a type of plot plan without building dimensions, a 2011 Property Assessment Summary showing building areas, and some 2010 Business Assessment notices, including an Amended Notice. These, the Respondent contended, supported the building area adopted in the current assessments, although the Respondent also stated that one of the areas was not "entirely accurate" and would be amended slightly for the coming year. None of the areas shown on the Assessment notices were verified in any manner by the Respondent. The Complainant argued that the 2011 Property Assessment Summary could not be considered since it was "*post facto*". The Board does not agree. In the Board's opinion, the term "*Post Facto*" refers to an event or "happening" after the fact. The building sizes have been in existence since the buildings were constructed. The fact that they are confirmed by some information obtained or generated after the effective date does not negate the validity of that information.

**Board's Decision:**

The Board finds it incredulous that neither party would expend the effort to measure the buildings in question, particularly in this case, where the building area is the single issue before the Board. Building areas are crucial to property appraisal, be it mass appraisal for assessment purposes, or site specific appraisal for other purposes. Building measurements are fundamental to the calculation of any building area. And, barring the availability of current blue prints or reliable building plans, a simple site visit armed with a tape measure, pencil, and pad of paper would provide an accurate, reliable answer that could, perhaps, avoid the requirement for a CARB hearing. Unfortunately neither party took advantage of that opportunity.

This Board finds that neither party provided sufficient reliable evidence for this Board to arrive at a cogent decision. The onus is on the Complainant to prove His case.

In keeping with *Kneehill (County) v. Alberta (Municipal Affairs, Linear Assessor)* (2004) Board Order MGB001/04:

*"It is up to the parties who file a complaint on an assessment to put sufficient energy into proving their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence to prove their case".(para120).*

The complainant failed to meet that requirement.

Unfortunately, therefore, this Board has no alternative but to confirm the assessments as they stand.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF November 2010.

  
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Jerry Zezulka  
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.*