

**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:**

***Indgion Holdings Ltd., COMPLAINANT***

**and**

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

**before:**

***Paul G. Petry, PRESIDING OFFICER***

***Sherry Rourke, MEMBER***

***Jim Rankin, 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:

<b>ROLL NUMBER:</b>	<b>072023005</b>
<b>LOCATION ADDRESS:</b>	<b>3820 – 17<sup>th</sup> Avenue SE</b>
<b>HEARING NUMBER:</b>	<b>57124</b>
<b>ASSESSMENT:</b>	<b>\$ 895,000</b>

This complaint was heard on 10 day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- Indgion Holdings Ltd. – Mr. D. MacRae and Mr. K. MacRae

Appeared on behalf of the Respondent:

- City of Calgary – D. Grandbois Assessor

**Property Description and Background:**

The subject property is an old Shell Canada gas station located at the corner of 17<sup>th</sup> Avenue and 38<sup>th</sup> Street S.E. The land is 14153 square feet improved with a small 890 square foot kiosk type of building currently used as a speciality food outlet called Shawarma Palace. The Assessment increased by some 67% over the previous year placing the taxes at \$975.65 per month. The Complainant raises concerns with the extent of the year over year increase and the value the Assessor has attached to the land given its location.

**Issues:**

1. What is the correct value of the improvement given its size and location related influences?
2. What is the market value of the subject land located in the Forest Lawn District of Calgary?

**Other Issues on the Complaint Form:**

Other issues were raised in the Complaint filed with the Assessment Review Board (ARB) for 2010. The only issues that the parties brought forward in the hearing of this matter before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised on the complaint form.

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

1. **Value of the Improvement** - The CARB has determined that value of the improvement on the subject property at \$39,994 should not be disturbed.
2. **Market Value of the Land** - The value for the subject land has been determined to be \$636,885 based on a unit value of \$45 per square foot.

## **Value of the Improvement**

### **Summary of the Party's Positions**

The Complainant provided evidence respecting the current tenant's financial circumstances suggesting that the tenant can not afford to absorb the significant tax burden represented by the increase of 67% in assessment. This property is not in a desirable location and is subject to high levels of crime and other neighbourhood problems. The building is in very poor condition partly due to the tenant's erection of a sign which caused considerable damage to the roof. Given the size of the building, its location and its condition it is not possible for this property to generate the revenue required to make a business profitable at the current level of taxation.

The Respondent indicated that the subject property has been assessed based on the cost approach as it is recognized that based on the concept of market value, giving regard to the property's highest and best use, the subject building contributes only a very small portion of the value for the property over all. The building has been assessed at only \$39,994 and this value has a minimal impact on the over all assessment.

### **Findings and Reasons**

The CARB agrees with the Respondent's position respecting the value attached to the improvement in this case. The improvement represents less than 5% of the current assessment and the building is in use thereby providing the land owner with some off set of holding costs until the property is redeveloped. Given the size and location of the subject parcel of land, the small improvement can not be expected to provide a realistic return on the over all value. For these reasons the CARB will not disturbed the assessed value of the building.

## **Market Value of the Land**

### **Summary of the Party's Positions**

The Complainant indicated that the 2009 assessment was \$536,500 and the current assessment is \$895,000. It seems unreasonable to suggest that land values in Forest Lawn have risen at all over the last year and certainly not to the extent of 67%. The Complainant brought forward two 2009 sales of nearby properties that both sold for \$775,000. The Complainant argued that these properties have better improvements and are not contaminated as is the subject; therefore they reflect a considerably lower land value than the assessment of the subject. The Complainant also provided a list of City equity comparables and argued that three assessments along 17<sup>th</sup> Avenue would also support a lower assessment for the subject. The Complainant requested that the CARB reduce the assessment to lasts years value of \$536,500.

The Respondent indicated that the subject property's value is primarily derived from the value of its land. The land value formula for the S.E. for 2010 has been set at \$107 per square foot for the first 10,000 square feet and the balance over 10,000 square feet at a value of \$17 per square feet. When this formula is applied to the subject it results in a land value of \$1,140,601. The Assessor then applied adjustments of +5% for the corner location, -8% for traffic and -30% because of the contamination. These adjustments reduce the land value of the subject from \$1,140,601 to \$855,451. The Respondent did not provide sales data to support their land rate but argued that the subject had been assessed fair and equitably along with other similar properties in the S.E.

**Findings and Reasons**

CARB questions whether a general land value for south Calgary would necessarily be correct for the Forest Lawn district. The best sale only blocks from the subject at 1809 – 42 Street S.E., after adjustment for the fact that it is not contaminated, shows a value of \$45 per square foot. The Board also looked at what it felt was the best equity comparable at 4504 – 17 Avenue S.E. and found that this property is assessed at approximately \$47 per square foot. Based on these value indicators the CARB has valued the subject land at \$45 per square foot for 2010.

**Decision Summary**

The CARB has not changed the value attached to the improvement on the subject land at \$39,994 and when this value is added to the land value based on \$45 per square foot the resulting over all value for the subject property is determined to be \$676,500 (rounded). The subject assessment will therefore be reduced to \$676,500 for 2010.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 23<sup>rd</sup> DAY OF DECEMBER 2010.



**P. Petry**  
**Presiding Officer**

**An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:**

*470(1) 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.*

*470(2) 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).*

*470(3) 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*