

**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:**

***The Uplands In Hawkwood Homeowners Association, COMPLAINANT***

**and**

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

**before:**

***J. Gilmour, PRESIDING OFFICER***

***I. Zacharopoulos, MEMBER***

***M. Peters, 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:

<b>ROLL NUMBER:</b>	<b>015213309</b>
<b>LOCATION ADDRESS:</b>	<b>645 Hawkside Mews NW</b>
<b>HEARING NUMBER:</b>	<b>60286</b>
<b>ASSESSMENT:</b>	<b>\$137,500</b>

This complaint was heard on the 13<sup>th</sup> day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *J. Slade*

Appeared on behalf of the Respondent:

- *T. Johnson*

**Background:**

The subject property is a vacant lot of .22 acres located in the area of Hawkwood in the City of Calgary. In its Assessment Summary Report, the City under the heading of "Property Use" states that it is recreational and under the heading of "Subproperty Use" as a public utility lot. The City also refers to the vacant land as Lot 49.

At the present time, the Complainant uses the lot to park RV's. Down the centre of the property runs an overhead transmission line, which is noted by the City as a negative influence.

The City has zoned the property DC/R-1, which indicates that the property can be developed. The City has also referred to a land title certificate which indicates a number of restrictive covenants are attached to the subject property.

**Issue:**

What is the market value of the assessed property?

**Summary of the Complainant's Evidence:**

The Complainant argued that the property assessment for 2009 was \$27,500. He also referred to a note from the City in 2002 which stated that the property is raw land and cannot be developed. At a raw land rate of \$100,000 an acre, less 50% for the encumbrances, the assessment for the year came to \$11,000. It was also referred to in the same correspondence that there were underground as well as overhead encumbrances on the property.

The Complainant is seeking a reduction of the assessment to \$27,500.

**Summary of the Respondent's Evidence:**

The assessor stated that an Amended Property Assessment Notice had adjusted the assessment of the subject property from \$275,000 to \$137,500 because of the overhead encumbrance.

The Respondent in evidence stated that the assessment was prepared by relying on Bylaw Number 69Z90 dated 16 July 1990. Under the heading "Land Use", it stated that the land shall be used only as a private recreational vehicle storage lot.

The Respondent also argued that the lot of land behind the subject property was an electrical substation which had buildings located on it, therefore the subject property could be developed as well. Under questioning by the Board, it was disclosed that there were no overhead transmission lines running across this adjacent property.

The Respondent also relied on two comparable vacant lots close to the subject property. These were zoned R-C1 in lieu of DC-R-1 for the property under appeal.

**Board's Findings:**

The Board found that the evidence of the Complainant was the most convincing and compelling. The Board finds that the history of the property, correspondence submitted by the Complainant and the aerial photographs of the land suggests that the property cannot be considered as R-1 and available for development as a result of its encumbrances above and below the ground. In addition, the Board determined that the increase of the assessment from the year 2009 to 2010 was unfair and inequitable.

The Board was also not clear how the City arrived at its 50% reduction from the original assessment of \$275,000.

**Board Decision:**

The Board reduces the assessment to \$27,500 based on the evidence of both parties.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF December 2010.

  
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J. Gilmour  
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.*