

**REVISED  
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-26.1, Section 460(4).

**between:**

***Datalog Technology Inc., COMPLAINANT***

**and**

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

**before:**

***H. Kim, PRESIDING OFFICER***

***D. Pollard, MEMBER***

***I. Zacharopoulos, 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>201151321</b>
<b>LOCATION ADDRESS:</b>	<b>10707 50 St SE</b>
<b>HEARING NUMBER:</b>	<b>60445</b>
<b>ASSESSMENT:</b>	<b>\$1,010,000</b>

This complaint was heard on the 17<sup>th</sup> day of January, 2011 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

**Property Description:**

The subject is a 1.64 acre vacant industrial property in the DU1 zone of Southeast Calgary, now called the Eastlake area. It is assessed at the DU1 vacant land rate of \$620,000 per acre. When the 2010 assessment roll was set, the parcel was owned by the City of Calgary and was exempt from taxation. It was purchased by the Complainant on July 29, 2010. An amended assessment notice was issued on August 26, 2010, changing the taxation status from Exempt from Taxation to Taxable.

**Issues:**

The only issue identified on the Complainant form was the assessment amount, and stated:

The requested assessed value reflects the price/acre of the only bare land transaction that traded in Eastlake in 2009 (i.e. \$526,000 per acre) multiplied by the 1.64 acre property size. The land transaction at 4750 104 Avenue SE was used as the sole comparable from 2009.

**Complainant's Requested Value:** \$863,000

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

The Complainant purchased the subject property for \$910,000 and argued that the assessment amount may have reflected transactions in 2008 but does not reflect the deterioration of values that occurred in 2009. The Complainant presented sales of similar sized parcels in the area:

Sale Date	Address	Price	Size (acres)	Price/Acre
4-Jul-08	4920 110 Ave SE	\$ 1,130,220	1.819	\$ 621,341
11-Aug-08	10911 50 St SE	\$ 745,830	1.228	\$ 607,353
1-Oct-08	10447 50 St SE	\$ 987,500	1.582	\$ 624,210
22-Oct-08	10671 50 St SE	\$ 1,300,320	2.157	\$ 602,837
18-Dec-08	10550 48 St SE	\$ 837,000	1.357	\$ 616,802
	<b>Average 2008 sales</b>			<b>\$ 614,509</b>
18-Dec-09	4750 104 Ave SE	\$ 1,102,500	2.095	\$ 526,253
	<b>Average 2009 sales</b>			<b>\$ 526,253</b>
27-May-10	10580 48 St SE	\$ 550,800	1.08	\$ 510,000
28-May-10	10403 50 St SE	\$ 1,060,000	2	\$ 530,000
30-Jun-10	10447 50 St SE	\$ 987,500	1.81	\$ 545,580
30-Jul-10	10707 50 St SE	\$ 910,000	1.64	\$ 554,878
	<b>Average 2010 sales</b>			<b>\$ 535,115</b>

There was only one transaction in 2009 and as it might not be a representative sample, the Colliers International - Calgary Industrial Report Q4-09 was considered. It contained a graph showing the trend in values for fully serviced land in Northeast Calgary, Southeast Calgary, Airdrie and Balzac annually from 2003 to 2009 with forecast values for 2010 and 2011. The data points for SE Calgary (approximately \$750,000 in 2008 and \$530,000 in 2009), show a reduction of at least 15% is reasonable.

Therefore, the Complainant concluded that the one transaction in 2009 is representative of market value and formed the basis for the requested value of \$526,000/acre.

Respondent's position:

The 2010 assessment is based on market value at July 2009. Sales that took place in the two years prior to the valuation date are considered in determining the assessment. Sales that happened after July 2009 are not taken into account for the 2010 assessment but are considered for the following year. The Respondent presented sales of vacant land in DU1 that took place between July 21, 2007 and Dec 18, 2008. The 2007 sales were time adjusted upwards to July 2009 and the 2008 sales were not time adjusted as there were no sales to support a change in market value between 2008 and 2009 for this area. The parcels presented ranged in size from 0.865 to 9.503 acres and sold for a time adjusted price per acre of \$524,834 to \$768,180 for a median value of \$624,210 which supports the assessment of \$620,000/acre.

The Complainant's December 2009 sale is *post facto*, as are all of the 2010 sales, and would not have been considered in setting the assessment. The Respondent noted that the Affidavit re Value of Land for the subject transaction stated the true consideration and current value was \$990,000 not \$910,000 as stated by the Complainant.

The Respondent further submitted that the only reason the amended notice was issued was due to the change in taxation status, and there had been no change in the assessment amount. If the transaction had occurred between two taxable parties, no amended assessment would have been issued and the purchaser's portion of the property taxes would have been addressed in the statement of adjustments. In a typical transaction, there is no opportunity to appeal the 2010 assessment after March 2010. Therefore the Board should not consider *post facto* sales information.

Complainant's rebuttal:

The Affidavit re Value of Land was signed by the Complainant's lawyer in the transaction, and reflected the purchase price and the \$80,000 deposit that was required by the City related to service connections and driveways. The deposit amount is part of the development costs, not the original land costs and should not be included in the sale value. The Transfer of Land document signed by the City of Calgary clearly states the purchase price is \$910,000.

The Respondent's belief that sales in 2008 may be the best indicator of market value in 2009 does not take into account the significant deterioration in the economy which started in the fourth quarter of 2008 and continued into 2009. The Complainant further noted that the Respondent's sales included larger parcels that spanned the block between 50 St and 52 St SE and were "through" lots with greater value than the subject.

Decision and Reasons:

Section 293 of the *Municipal Government Act* sets out requirements for preparing an assessment and an amended assessment:

- 293(1)** In preparing an assessment, the assessor must, in a fair and equitable manner,  
(a) apply the valuation and other standards set out in the regulations, ...

- 305(1)** If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,
- (a) the assessor may correct the assessment roll for the current year only, and
  - (b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

...

**(3)** If exempt property becomes taxable ..., the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.

Alberta Regulation 2004/220 *Matters Relating to Assessment and Taxation* sets the valuation and other standards:

**3** Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

**4(1)** The valuation standard for a parcel of land is

- (a) market value, ...

The Board agrees that in view of the sales that occurred after July 2009, it is evident that the market declined substantially between 2008 and 2009. However, the 2010 assessment is set in late 2009 and mailed out in early January 2010. The sale that occurred on December 18, 2009 could not have been considered in determining market value for assessment purposes. Similarly, the Colliers International - Calgary Industrial Report is dated Q4-09 and would not have been available until the end of 2009. Had the corresponding graph in a Q2-09 report shown the same trend, the Board would have considered it more compelling; however the Q2 market report was not presented.


Due to the lack of sales, the Respondent concluded that there was no evidence of a decline in value between late 2008 and July 2009, and set the assessment values accordingly. With the benefit of hindsight, it is reasonable to suggest that if sales had occurred between December 2008 and July 2009 they would have supported a downward time adjustment. Nevertheless, the sales did not occur, and it cannot be said that the market value on July 1, 2009 would have reflected the value in December 2009. In view of this, the Board is of the opinion that it would be inequitable to use *post facto* sales evidence, unavailable to other taxpayers in the municipality during the 2010 assessment review period, to support a reduction on appeal of an amended assessment notice issued in the third quarter of 2010.

Sales after July 2009 were not considered; therefore the disagreement with respect to whether the deposit was part of the sale price or development costs was not material and not addressed.

**Board's Decision:**

The complaint is denied and the assessment is confirmed at \$1,010,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF JANUARY 2011.

  
for H. Kim  
Presiding Officer

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
C1	Complainant Form
C2	Complainant's submission
R1	Respondent's submission

**APPENDIX 'B'****ORAL REPRESENTATIONS****PERSON APPEARING    CAPACITY**

Peter Huff	Datalog Technology Inc., Complainant
Jason Lepine	Assessor, City of Calgary, Respondent

*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.*