

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

This is a decision of a single member panel of the Composite Assessment Review Board (CARB) of Calgary from a hearing held on May 10, 2010, to determine the validity of a complaint filed respecting:

Roll No:	677001414
Address:	11141 – 84 Street SE
Amount:	\$978,500

This complaint was heard on 10 day of May 2010 at the office of the Assessment Review Board located at 4 Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 7 between:

***Assessment Advisory Group, COMPLAINANT
#112, 1212 – 1 Street SE
Calgary, AB T2G 2H8***

and

The City of Calgary, RESPONDENT

before:

David Thomas, PRESIDING OFFICER

Appeared on behalf of the Complainant:

- *Stephen Cobb*
- *Yuan Tao*

Appeared on behalf of the Respondent:

- *Mr. Scott Powell, Assessor*

Issues:

The City asks that this complaint be dismissed because of insufficiency in the completion of Section 5 of the complaint form.

The City alleges that while the agent has added a separate sheet to the complaint form (as allowed), the information contained within this sheet amounts only to a statement of issues to be heard. It does not contain anything that could be considered grounds for such issues as is required by the specific wording of the legislation and of the complaint form.

The City submits that the right to complain is a right, but one only acquired by compliance with the conditions and formalities set out within the complaint form. The consequence of failure to specify issues, grounds in support of those issues, or even the requested assessment, is mandatory dismissal. The City believes that, while the consequence appears onerous, it is by such means that the legislators intend to accomplish the resolution of all assessment complaints in the year in which the assessments are issued.

The complainant argues that nothing within the new legislative regime for assessment appeals says that "efficiency" in dispatch is the pre-eminent requirement of the system.

The complainant appended a sheet to the complaint form set out as follows:

- The assessed value is incorrect, and fails to meet the legislated standard of market value and also fails to meet the requirements for equity in assessment.
 - The assessed value is not reflective of the property's market value.
 - Comparable property sales demonstrate lower market value is appropriate for the subject property or \$100,000/acre.
 - Comparable property sales
 - The assessed value does not adequately reflect the condition characteristics of the subject property.
 - Information on subject property, such as size, location, topography, shape, access & any contamination.
 - The assessed value is inequitable with comparable property assessments.
 - Comparable properties are assessed at lower values
 - Comparable property assessments
- The assessed value should be \$450,000
- Research is ongoing at the time of the filing of the complaint and such additional grounds and facts to be relied upon will be provided in accordance with the disclosure requirements of the Regulation.

The complainant and respondent had not discussed the matter for complaint due the lack of authorization from the owner in time for City discussion.

The complainant believes that the "grounds" stated within this addendum certainly set forth what will be presented in support of each issue. The complainant says that the assessor appears to want in this form a listing of all evidence that will be presented at a time when it has not even been gathered yet.

The complainant states that this subjective analysis by the assessor of the complainant's case

cannot be what the legislation intended as the standard of compliance.

The complainant asks that the Board award costs for being put through such a process.

Board Findings on Each Issue:

The complaint is valid and may be set for hearing.

Board's Decision:

The drafting by this complainant of a response to the requirements of Section 5 of the complaint form appears both reasoned and reasonable.

The documents set forth issues in correctness and equity of the assessment when compared to comparable sales and assessments, as well as the physical characteristics of the property.

The document sets forth the grounds (the use of sales and equity comparables) that will be used to support the issues, as well as further information on the physical characteristics.

In looking to each specific item, it appears the assessor is confusing evidence with grounds.


At the time of filing of a complaint, disclosure by the City may or may not have been made. It is not a prerequisite to filing the complaint.

The complainant's case for the appeal may yet be incomplete, but that does not disentitle him from filing a complaint, as long as the complaint does identify a triable issue requiring a hearing. However, Section 9(1) MRAC makes clear the Board is barred from hearing issues not established in the complaint.

"Grounds" is not necessarily intended to be a listing of evidence proposed for use at hearing, but, as here, the general nature of the means by which the complainant proposes to establish his issue.

The Board finds no impropriety in the parties in having this matter come for a preliminary hearing. Clarification of language and use in new legislation is necessary to give it meaning. As such, there is no basis upon which to grant costs.

MAILED FROM THE CITY OF CALGARY THIS 7 DAY OF June 2010.


for David Thomas
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.*