

**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, Revised Statutes of Alberta 2000 (the Act).

between:

**ECL Group of Companies Ltd.
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**J. Krysa, PRESIDING OFFICER
B. Bickford, MEMBER
R. Kodak, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	200144855
LOCATION ADDRESS:	5525 57 St SE
HEARING NUMBER:	67223
ASSESSMENT:	\$11,690,000

The complaint was heard on July 05, 2012, in Boardroom 3 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- J. Smiley

Appeared on behalf of the Respondent:

- I. McDermott

[1] There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

[2] The subject property is an unserviced 24.83 acre parcel of land, improved with seven industrial structures, four of which carry no assessment value. The remaining three structures, sized 6,000 sq.ft., 2,944 sq.ft., and 1,500 sq.ft. have been valued by means of the cost approach at a combined improvement value of \$345,420. The evidence with respect to the assessed land value is inconsistent between page 9 of R1, \$11,614,313 (\$467,753 per acre) and page 10 of C1, \$11,353,742 (\$457,259 per acre).

[3] The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment 4. an assessment class

Issue 1: Are the subject lands fully serviced or partially serviced for assessment purposes?

Issue 2: Does the assessment of the subject parcel reflect its market value?

Issue 3: Is the assessment of the subject parcel inequitable in relation to the assessments of similar properties?

The Complainant did not take issue with the improvement assessment of \$345,420.

At the hearing, the Complainant requested an assessment of \$7,810,000.

Issue 1: Are the subject lands fully serviced or partially serviced for assessment purposes?

[4] The Complainant argued that the land assessment reflects the value of a fully serviced parcel of land, however the subject property is not serviced by water, sanitary sewer or storm sewer from the adjacent roadway, 57th Street SE. During the course of the hearing, the Complainant conceded that water and sanitary sewer lines are available to the subject property in other adjacent roadways, but submitted that the nearest storm sewer line is located within an adjacent parcel and not at the boundary of the subject property. In support of the argument, the Complainant provided an overhead photograph to demonstrate that the nearest storm sewer line terminates in an adjacent property.

[5] The Respondent argued that the subject property meets the criteria of a fully serviced parcel, as water and sanitary sewer lines are available to the subject property in adjacent roadways, and storm sewer lines are available to the property from the adjacent parcel. In support of the argument, the Respondent provided a site services map, indicating that water and sanitary sewer lines are located within the adjacent 55 St. SE roadway, and that several parcels adjacent to the subject are serviced by storm sewer lines.

Decision: Issue 1

[6] The Board finds that the subject property can be fully serviced with water, sanitary sewer and storm sewer services. Consequently, the subject property may be considered "fully serviced" for assessment purposes.

[7] The legislation sets out criteria for serviced land in various subsections of section 4(1) of *Matters Relating to Assessment and Taxation Regulation, AR 220/2004*, as follows:

...can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel.

[8] The Board was persuaded that storm sewer lines are located in land that is adjacent to the subject property, as illustrated in the evidence of both Parties.

Issue 2: Does the assessment of the subject parcel reflect its market value?

[9] The Complainant argued that the subject's land assessment, at \$457,259 per acre, exceeds the market value of the parcel.

[10] In support of the argument, the Complainant provided a summary of six, southeast industrial land sales that transferred at rates ranging from \$146,395 to \$374,045 per acre, and at a median rate of \$301,349 per acre. The details of the sales are set out below:

Address	Land Use	Sale Date	Sale Price	Lot Size	\$/Acre
5505 72 Ave	I-2	Oct-07	\$ 8,514,450	29.75	\$ 286,200
5625 94 Ave	I-2	Jan-08	\$ 7,156,000	22.61	\$ 316,497
5625A 94 Ave	I-2	Sep-08	\$ 7,861,000	22.61	\$ 347,678
7295 106 Ave	I-G	Feb-11	\$ 2,914,717	19.91	\$ 146,395
7310 108 Ave	I-2	Jul-07	\$ 9,377,302	25.07	\$ 374,045
6335 57 St	I-G	Jun-11	\$ 8,750,000	56.17	\$ 155,077
Median					\$ 301,349
Average					\$ 270,982

[11] The Complainant argued that the most recent sales indicate a market rate of approximately \$150,000 per acre; and the subject's current assessment rate of \$457,259 per acre is not even supported by the 2007 and 2008 sales that occurred during the height of the market. The Complainant submitted that the median rate of the sales evidence supports the Complainant's requested assessment of \$7,810,000 (24.83 acres x 301,000 per acre).

[12] The Respondent submitted that the land has been assessed by means of the following formula:

Area	Acres	Rate	* Factor	Value
First 10 Ac.	10.00	\$ 525,000	100%	\$ 5,250,000
10 to 20 Ac.	10.00	\$ 525,000	85%	\$ 4,462,500
Area > 20 Ac.	<u>4.83</u>	\$ 525,000	75%	<u>\$ 1,901,813</u>
	24.83	[\$ 467,753]		\$ 11,614,313

* Diminishing Returns Factor

[13] In support of the \$525,000 per acre base land value, the Respondent provided a summary of six, 2001 southeast industrial land sales that transferred at rates ranging from \$512,500 to \$560,000 per acre. The details of the sales are set out below:

Address	Land Use	Sale Date	Sale Price	Lot Size	\$/Acre
5759 80 Ave	I-G	May-11	\$ 1,002,400	1.79	\$ 560,000
10341 50 St	I-G	Feb-11	\$ 1,102,400	2.08	\$ 530,000
5733 80 Ave	I-G	Feb-11	\$ 1,226,400	2.19	\$ 560,000
10595 50 St	I-G	Mar-11	\$ 1,344,600	2.49	\$ 540,000
6915 108 Ave	I-G	Jun-11	\$ 2,460,000	4.80	\$ 512,500
11199 48 St	I-G	Mar-11	\$ 2,772,000	4.95	\$ 560,000

[14] In response to the Complainant's evidence, the Respondent argued that the Complainant's sales are either dated, or dissimilar to the subject property. The Respondent submitted that the property located at 5625 94 Ave SE is inferior to the subject, in that only partial (sanitary sewer) services are available to it. Further, the property located at 6335 57 St SE is also inferior to the subject property as a result of the availability of only partial services, as well as limited roadway access; and the property located at 7295 106 Ave SE is also inferior to the subject property as there are no land services available to it, and the property has not been stripped of topsoil.

Decision: Issue 2

The Board finds that the assessment of the subject parcel does not reflect its market value.

[15] The Complainant's similarly sized industrial land sales are compelling market evidence of land rates well below the subject's rate of assessment.

[16] Although the Board accepts the Respondent's unchallenged evidence in respect of the base land rate of \$525,000 per acre, the Board notes that the Respondent failed to provide any market evidence in support of the 15% and 25% diminishing returns factors applied in the assessment of industrial land parcels within the size range of the subject property. The Board, however, was persuaded by the Respondent's evidence of dissimilarities between the subject property and the Complainant's 2011 sales comparables, and therefore does not accept that the median land rate of \$301,000 per acre reflects the market value of the subject property.

[17] With respect to the Complainant's 2007 and 2008 sales, although the Respondent argued that the sales were "dated" and therefore irrelevant, the Respondent failed to provide any market evidence to demonstrate that those sales are not reflective of current market value. The Board also notes that although the Complainant argued that the transactions occurred in the "height of the market", the Complainant also failed to provide any relevant market evidence to demonstrate that the sales are not reflective of current market value.

[18] Consequently, the Board finds that the July 2007 sale of the 25.07 acre parcel located at 7310 108 Ave SE, at \$374,045 per acre, best reflects the market value of the property. The evidence indicates that the parcel is located within close proximity of the subject; is fully serviced, and of similar zoning as the subject property; and is only slightly larger than the subject property, suggesting a unit rate of \$375,000 per acre.

Issue 3: Is the assessment of the subject parcel inequitable in relation to the assessments of similar properties?

[19] The Complainant argued that a similar, neighbouring property located at 6335 57 St SE, is assessed at a rate of \$206,000 per acre, in contrast to the subject property assessment rate of \$457,259 per acre.

[20] The Respondent argued that the Complainant's equity comparable is inferior to the subject property as a result of the availability of only partial services, as well as limited roadway access, and therefore the lower assessment is appropriate.

[21] The Respondent provided an assessment detail summary titled, "2012 City of Calgary Industrial Land Equity Comparables", to demonstrate that the land assessments of three industrial properties were equitable in relation to the subject.

[22] In rebuttal, the Complainant argued that the Respondent's land equity comparables were immaterial and misleading, as none of the properties are assessed by means of the Respondent's land valuation formula. Rather, all are assessed as improved industrial properties by means of the direct sales comparison approach.

Decision: Issue 3

[23] The Board finds that there was insufficient relevant evidence to demonstrate that the assessment of the subject parcel is inequitable in relation to the assessments of similar properties.

[24] In light of the Complainant's rebuttal evidence, the Board applied no weight to the Respondent's summary, titled "2012 City of Calgary Industrial Land Equity Comparables". The Board finds this evidence and argument misleading and deceptive, and cautions the Respondent that similar conduct in the future may be grounds for costs.

[25] Notwithstanding the above, the Board is not persuaded that the Complainant's equity comparable demonstrates an inequity, as the Respondent's evidence suggests that the property is dissimilar to the subject property in respect of availability of land services and limited access.

[26] The comparable however, is problematic in respect of its June 30, 2011 sale, (1 day prior to the legislated valuation date), with regard to the Respondent's land valuation formula, as detailed below:

2012 Assessment: \$11,570,000 (*Valuation Date: July 01, 2011*)

June 30, 2011 Sale Price: \$ 8,750,000

Assessment : Sale Ratio: **1.32**

[27] The only market evidence before the Board in respect of the Respondent's diminishing returns factors is the 2011 sale of the above equity comparable, which refutes the Respondent's land valuation formula.

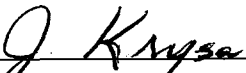
Board Decision:

The revised assessment is calculated as follows:

Land:	24.83 acres @ \$375,000 per acre =	\$9,311,250
Improvements:	Unchanged	\$ 345,420

The assessment is **REVISED** from: \$11,690,000 to: **\$9,650,000.**

DATED AT THE CITY OF CALGARY THIS 28 DAY OF AUGUST, 2012.



J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Submission (49 pages)
2. R1	Respondent's Submission (35 pages)
3. C2	Complainant's Rebuttal Submission (20 pages)

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Land	Land Value; Equity	