

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***Sears Canada Inc. (as represented by AEC International Inc.), COMPLAINANT***

**and**

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

**before:**

***L. Wood, PRESIDING OFFICER***

***P. Charuk, MEMBER***

***T. Usselman, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>Roll Numbers</b>	<b>Location Addresses</b>	<b>Hearing Numbers</b>	<b>Assessments</b>
135002103	5400 Dufferin BV SE	68487	\$4,290,000
135002400	5650 Dufferin BV SE	68483	\$2,040,000
135002301	5600 Dufferin BV SE	68509	\$1,740,000
135002202	5500 Dufferin BV SE	68451	\$6,000,000

These complaints were heard on 19 day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- Mr. J. Luong Agent, AEC International Inc.
- Mr. J. Wingrowich Agent, AEC International Inc.

Appeared on behalf of the Respondent:

- Mr. G. Bell Assessor, City of Calgary

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

The four properties under complaint consist of an improved parcel with one industrial warehouse, and three vacant land parcels which are adjacent to the improved parcel, all owned by Sears Canada Inc. At the commencement of the hearings, the Board asked the parties which complaint they wanted to proceed with first. The Complainant requested the complaint pertaining to the improved parcel be heard first (file #68451), followed by a separate hearing for the three vacant land parcels (files #68487, 68483, 68509). The Respondent had no objection. The Board proceeded on that basis.

During the hearing for the three vacant land parcels, there was undisputed evidence presented to the Board that the improved parcel (Lot 9) and the three vacant land parcels (Lots 8, 10, & 11) were consolidated into one Land Title Certificate (051 417 085) in November 2005, as per the owner's request (Exhibit C1 pages 55 – 57). (It is noted that this evidence was not brought forward in the hearing concerning the improved parcel). Both parties submitted that they were not aware of that consolidation until recently. The Respondent indicated that he would look into the matter further for next year's assessment.

The Board finds that these four complaints should have been heard together, not consecutively, because these properties form one larger parcel. It is for this reason that the Board has based its decision on the evidence and argument submitted on the four complaints together despite the fact that it held two separate hearings that day. It could be perceived that the Complainant intentionally misled the Board by suggesting that it should hear the improved parcel first, and then the vacant land parcels in two separate hearings, given his knowledge of the Land Title Certificate. The Board strongly discourages such tactics in the future. Moreover, the Board finds that these four properties should not have been assessed individually but collectively as one parcel based on the Land Title Certificate. The Board expects the Assessment Department will correct its records pertaining to these properties accordingly given section 289(2) of the *Municipal Government Act*. It is unacceptable, in the Board's view, to wait until preparing next year's assessments in order to correct errors that are identified in the current assessment year.

**Property Description:**

The subject properties are located south of a 628,068 sq. ft. warehouse known as the Sears Distribution Centre (which is not under appeal) in East Shepard Industrial.

The first property is a single tenant warehouse (SLH Transport or Lot 9) which was constructed in 2000, has an assessable building area of 30,141 sq. ft. and 43% finish. The site coverage ratio is 10.74%. The property was assessed as a 5.07 acre parcel of land with 3.25 acres of extra land. There was no land adjustment for the excess land.

There are three additional vacant land parcels (Lots 8, 10, & 11) located adjacent to SLH Transport which are 8.177 acres, 3.717 acres and 3.326 acres respectively. All of the lands under appeal have the land use designation of I-G, Industrial General.

The improved property and the three vacant land parcels are owned by Sears Canada Inc.

**Issues:**

1. The assessment for the improved property is in excess of market value.
2. The assessment for the improved property is inequitable.
3. The vacant land parcels should be valued as excess lands.

**Complainant's Requested Values:** \$3,920,000 or \$4,343,000 (improved parcel); and  
\$0, or \$864,000 or \$1,417,500 (vacant land parcels)

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

1. The assessment for the improved property is in excess of market value.

The Complainant submitted that SLH Transport (the improved property) is over-assessed at \$199.13 psf when comparing it to 8 sales comparables of similar single tenant warehouses (Exhibit C1 page 9). (The Complainant identified sales comparables #1, #3 and #5 as his better comparables, and #3 as his best comparable). The sales comparables, all single tenant warehouses, sold in March 2010 – June 2011. The assessable building areas are 21,086 – 56,662 sq. ft., situated on land parcels of 1.45 – 7.5 acres, built in 1986 – 2004, a finish ratio of 5% – 67%, and site coverage ratio of 10% – 42%. These single tenant warehouses sold for a rate of \$77.00 - \$179.00 psf. The Complainant's request of \$133.00 psf was based on the average of those sales comparables.

The Respondent submitted four sales comparables in support of the assessed rate of \$202.17 psf (Exhibit R1 page 21). The sales comparables, all single tenant warehouses, sold in September 2008 – April 2011. The assessable building areas are 15,500 – 28,706 sq. ft., situated on land parcels of 1.72 – 7.67 acres, built in 2003 – 2011, a finish ratio of 10% - 30% and site coverage of 7.29% - 22.64%. These single tenant warehouses sold for a time adjusted sales price of \$212.82 psf - \$596.86 psf.

The Complainant submitted rebuttal evidence in regards to the sales comparables used in the Respondent's analysis (Exhibit C2 pages 3 & 4).

The Board placed less weight on the Complainant's sales comparables because six of the comparables are not located in the same area as the subject property. The Board also placed

less weight on sales comparables #1 and #5 as they are located in superior locations, as acknowledged by the Complainant, than the subject property. The Board considered the Complainant's best sales comparable #3 (4311 122 AV SE) which is located near the subject. It is close to the same assessable building area as the subject (30,240 sq. ft.), located on a smaller parcel size (1.45 acres), newer (built in 2004), has less finish (13%) and higher than typical coverage (36%). It sold in June 2011 for \$104.00 psf.

The Board reviewed two of the Respondent's comparables #2 and #4 located in the same area as the subject property. The Respondent was unable to speak to the sale of 4700 102 AV SE which sold in June 2010 for \$596.86 psf (time adjusted); therefore, the Board placed little weight on that sale and considers it an outlier in any event. The Board considered the sales comparable located at 4398 112 AV SE which sold in September 2008 for \$215.75 psf (time adjusted). It is smaller in assessable building area than the subject property (16,939 sq. ft.), located on a smaller parcel size (1.72 acres), newer (built in 2008), has less finish (16%) and has less than typical site coverage (22.64%).

The Board notes the sales data was quite limited and considerable adjustments would have to be made to both parties' sales comparables to make them truly comparable to the subject property especially given its low site coverage, high percentage of finish and excess lands. However the Board finds the Complainant did not provide sufficient evidence to support the requested assessed value of \$133.00 psf. The sales comparable submitted by the Respondent located at 4398 112 AV SE provides the best indication of value as it has low site coverage (less than the typical 30%) similar to the subject property. The Board notes the Complainant's concern that this sale occurred in 2008 and is therefore dated (Exhibit C2 page 4). However there was no contradictory evidence provided to dispute the Respondent's time adjusted sale price. As such, the Board finds the assessed rate of \$202.00 psf was supported. The Board notes that the subject property has excess lands but was not given a land adjustment in its 2012 assessment. The Board finds a land adjustment is warranted based on the evidence presented and will set out that land adjustment calculations further in its analysis.

2. The assessment for the improved property is inequitable.

The Complainant submitted 9 equity comparables in support of an assessed rate of \$144.00 psf or \$4,340,000 for the subject property (Exhibit C1 page 13). The Complainant indicated that he obtained the equity comparables from the City of Calgary's website and was not able to obtain the percentage of finish.

The Respondent did not submit any equity comparables for the Board's consideration.

The Board finds, given the significant percentage of finish within the subject property at 43%, it would require the interior finish ratio of the equity comparables in order to draw any conclusions. Without that information, which could have been obtained by the Complainant from the Respondent based on section 300 of the *Municipal Government Act*, the Board placed little weight on the Complainant's equity comparables.

3. The vacant land parcels should be valued as excess lands.

The Complainant presented three scenarios for the Board's consideration as to how to value the

subject lands. Firstly, he suggested that the vacant land parcels (Lots 8, 10 & 11) and the improved parcel (Lot 9) could be assessed as part of the larger Sear's Distribution Centre which has 47.84 % site coverage. Taking the three vacant land parcels and the improved property's into consideration would reduce the Distribution Centre's site coverage to 30% which is typical for an industrial property (Exhibit C1 page 4):

- Distribution Warehouse: 29.97 acres (628,068 sq. ft.)
- SLH Transport: 5.07 acres (30,141 sq. ft.)
- Land (Lot 8): 8.17 acres
- Land (Lot 10): 3.32 acres
- Land (Lot 11): 3.71 acres
  
- Total Land: 50.24 acres (2,188,454 sq. ft.)
- Total sq. ft. of Improvements: 658,209
- Actual Site Coverage: 30%

The Complainant argued that the land parcels are owned by Sears Canada Ltd. and are used in conjunction with its larger Distribution Centre for the storage of trailers, movement of goods etc. Moreover the Distribution Centre requires these additional lands in order to carry out its current operations, and 47.84% site coverage hinders its ability to perform those operations. The Complainant submitted that there are no plans to subdivide the lands, and that the site functions as one economic unit; therefore the lands should have a \$0 assessed value. The Complainant acknowledged this was a unique argument that he was presenting to the Board.

Secondly, the Complainant proposed a value based on the consolidated parcels, particularly that the vacant land parcels (Lots 8, 10 & 11) should have been assessed together with the improved parcel (Lot 9), and not separately (Exhibit C1 page 28):

- Lots 8, 9, 10 & 11 = 20.3 acres
- Site Coverage = 3.4% (Calculation =  $884,268 \text{ sq. ft.} / 30,141 \text{ sq. ft. improvement} = 3.4\%$ )
- Surplus Land = 5.40 acres (Calculation  $30\% - 3.4\% = 26.6\%$ ) ( $884,268 * 26.6\% = 235,215.29$  or 5.4 acres)

The Complainant submitted if the SLH Transport has 5.4 acres of excess land, then there are two possible valuations (Exhibit C1 pages 28 & 29):

- i. The first valuation is based upon comparable land sales (Exhibit C1 pages 26 and 29):
  - $5.40 \text{ acres} * (\$320,000 * 50\%) = \mathbf{\$864,000}$
- ii. The second valuation is based upon the City Assessment Land Rates (Exhibit C1 page 29):
  - $5.4 \text{ acres} * (\$525,000 * 50\%) = \mathbf{\$1,417,500}$

The Complainant requested that the Board find in favour of one of his proposed valuations of \$0, \$864,000 or \$1,417,500 for the subject lands.

The Respondent included 20 land sales with I-G zoning located in the SE quadrant in support of the City's 2012 Industrial Land Values of \$525,000/acre although he did not review those sales

at the hearing (Exhibit R1 pages 17 & 18). The Respondent submitted that the land assessments remained unchanged since last year's assessments (Exhibit R1 page 15). The Respondent argued the Complainant withdrew their complaints on these three assessments last year which indicates the Complainant accepted those assessed values as correct, fair and equitable (Exhibit R1 page 13). The Respondent requested the assessments be confirmed.

The Board placed little weight on the Complainant's argument that Lots 8, 9, 10, & 11 should be assessed with the Distribution Centre and given zero value. The only evidence before the Board was that these four parcels were consolidated together in 2005; therefore, it is reasonable to expect that the four parcels be assessed together. Moreover, the Board notes the 2012 assessment for the Distribution Centre was not under appeal before the Board.

The Board placed little weight on 5 of the 7 vacant land sales presented by the Complainant because of the DC56 zoning. The Complainant did not address the zoning and how it compares to the I-G zoning of the subject properties; therefore, the Board is unable to draw any conclusions between the two. The Board noted the Complainant submitted a post facto sale of an 11.2 acre parcel site in East Shepard (10450 50 St. SE) which sold in October 2011 for \$590,000/acre. For trending purposes only, the Board finds that sale supports the City of Calgary's assessed land rate for I-G lands at \$545,000/acre. The last sale (9620R 68<sup>th</sup> ST SE and 7295 106 AV SE) is a 30.020 acre site which had sold in February 2011 for \$96,514/acre (Exhibit C1 pages 79 & 80). The Board considered this sale to be an outlier, for the purposes of this appeal only, given the range provided by the Complainant (\$240,000 - \$590,000/acre) (Exhibit C1 page 26).

Taking the total acreage of 20.29 acres, the Board agrees with the Complainant that the site coverage for the SLH Transport is 3.4%:

$$20.29 \text{ acres} * 43,560 \text{ sq. ft./acre} = 883,832.4 \text{ sq. ft.}$$

$$30,141 \text{ sq. ft.} / 883,832.4 \text{ sq. ft.} = 3.4\%$$

However, the Board finds the Complainant made an error in calculating the surplus land at 5.4 acres (Exhibit C1 page 28). The Board has set out its calculations for the surplus land as follows:

$$883,832.4 \text{ sq. ft.} * .70 = 618,682.68 \text{ sq. ft.}$$

$$618,682.68 \text{ sq. ft.} / 43,560 \text{ sq. ft.} = 14.203 \text{ acres}$$

The Board noted that the Industrial Land Rate for I-G lands in the SE quadrant at \$525,000/acre was not disputed by the Complainant. However, the Board finds there was no evidence in support of a 50% reduction to surplus lands as asserted by the Complainant. As such, the Board determined the assessed value of the surplus lands as follows:

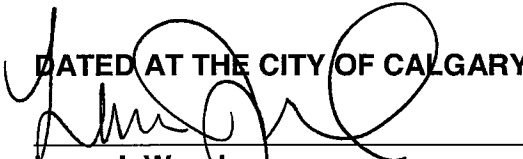
$$14.203 \text{ acres} * \$525,000/\text{acre} = \$7,456,575$$

The Board apportioned the excess lands to each of the roll numbers under complaint as follows:

**(Lot 8)****8.177 acres / 20.29 acres = 40.3%****.403 \* 14.203 acres = 5.72 acres****5.72 \* \$525,000 = \$3,003,000 or \$3,000,000 (rounded)****(Lot 10)****3.717 acres / 20.29 acres = 18.3%****.183 \* 14.203 acres = 2.60 acres****2.60 \* \$525,000 = \$1,365,000 or \$1,360,000 (rounded)****(Lot 11)****3.326 acres / 20.26 acres = 16.4%****.164 \* 14.203 acres = 2.33 acres****2.33 \* \$525,000 = \$1,223,250 or \$1,220,000 (rounded)****(Lot 9)****5.07 acres / 20.26 acres = 25%****.25 \* 14.203 = 3.55 acres****3.55 \* \$525,000 = \$1,863,750 or \$1,860,000 (rounded) + \$6,110,000 (building)  
= \$7,970,000****Board's Decision:**

The decision of the Board is to revise the 2012 assessments for the subject property as follows:

<b>Roll Numbers</b>	<b>Location Addresses</b>	<b>Hearing Numbers</b>	<b>2012 Assessments (from)</b>	<b>Revised 2012 Assessments (to)</b>
135002103	5400 Dufferin BV SE	68487	\$4,290,000	<b>\$3,000,000</b>
135002400	5650 Dufferin BV SE	68483	\$2,040,000	<b>\$1,360,000</b>
135002301	5600 Dufferin BV SE	68509	\$1,740,000	<b>\$1,220,000</b>
135002202	5500 Dufferin BV SE	68451	\$6,000,000	<b>\$7,970,000</b>

DATED AT THE CITY OF CALGARY THIS 4 DAY OF July 2012.
  
 Lana J. Wood  
 Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Evidence (file #68451)
2. C2	Complainant's Rebuttal (file #68451)
3. R1	Respondent's Evidence (file #68451)
4. C1	Complainant's Evidence (files #68483; 68487; 68509)
5. R1	Respondent's Evidence (file #68483)
6. R1	Respondent's Evidence (file #68487)
7. R1	Respondent's Evidence (file #68509)

*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	Warehouse	Warehouse Single Tenant	Sales Approach	Land & Improvement Comparables
	Other Property Types	Vacant Land		Land Value Equity Comparables