

**CALGARY  
COMPOSITE 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:**

***Lions Gate Group of Companies Ltd. (as represented by Altus Group Limited),  
COMPLAINANT***

**and**

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

**before:**

***S. Barry, PRESIDING OFFICER  
R. Kodak, MEMBER  
D. Morice, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>119001006</b>
<b>LOCATION ADDRESS:</b>	<b>9559 40 St. S.E. Calgary, Ab.</b>
<b>HEARING NUMBER:</b>	<b>64354</b>
<b>ASSESSMENT:</b>	<b>\$10,990,000</b>

This complaint was heard on the 16th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *D. Mewha*

Appeared on behalf of the Respondent:

- *I. McDermott*

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

No Procedural or Jurisdictional matters were raised at the hearing. Please see reference to common material in CARB 0865/2011-P.

**Property Description:**

The property under complaint is a 18.77 acre industrial parcel located in the South Foothills Industrial district. The parcel contains two buildings constructed in 1979. The first has an assessable area of 55,810 square feet (sq.ft.) and is assessed at \$84/sq.ft.. The second is 8,400 sq.ft. and is considered an outbuilding which is assessed at \$10/sq.ft. The buildings have 6.78% site coverage and the additional land calculated by the City is 14.53 acres and is assessed at \$425,000/acre.

**Issues:**

The Complaint Form raised some twelve issues or grounds of complaint which can be summarized, as follows:

1. The City has used the incorrect valuation method: the correct valuation method is the income approach.
2. The Classification of the property is incorrect.
3. The property details are incorrect as is the application of relevant influences.
4. The assessment is too high and reflects neither market value nor equity.

**Complainant's Requested Value:** On the Complaint Form the requested assessment was \$8,530,000. At the time of the hearing this was revised to \$8,190,000.

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

1. At the hearing the Complainant abandoned his request for an assessment based on the income approach and instead requested an adjustment to the amount of land deemed to be

additional lands as well as the value of those lands based on equity.

2. The Complainant withdrew his complaint with respect to classification. The concern related to an internal designation applied by the City as opposed to the classes established in s.297(1) of the Act.
3. Issues associated with property details related to the amount of additional land and were dealt with in the merit arguments for market value and equity.

The City has a policy, discussed in previous Complaint files within this hearing group, that assumes typical site coverage of 30% of the parcel and, if the site coverage is less than that, there is a formula to calculate how much is either additional land, if it could be subdivided from the parcel, or excess land if it could not. In this instance, the Respondent has determined that the additional site coverage is 14.53 acres.

The Complainant contended, and supported this contention with the City's My Property report, aerial photography and site plans, that because of the lack of public access on the north boundary of the parcel and the siting of the buildings on the parcel, that no more than 50% of the parcel can be considered as additional land given the physical characteristics of the property on December 31, 2010. This question was dealt with in 2010 by CARB decision 1454/2010-P on the subject property. That Board agreed with the Complainant and reduced the assessment. This Board found, from the visual evidence, that the Complainant's request for no more than 50% additional land was justified. The Board decided that the parcel with the buildings (the primary parcel) is to be dealt with as a 9.39 acre parcel and the residual parcel, containing the additional lands is to be dealt with as a 9.38 acre parcel.

The Respondent suggested that in reaching its decision in CARB 1454/2010-P, that Board made an error by excluding from the assessment approximately 5.17 acres from the primary parcel that could be considered excess to the building site. This Board calculated that the actual site coverage of the buildings on the primary parcel is 1.47 acres or approximately 16%. According to previous City policy, an assessment for excess land would be triggered in this adjusted scenario. The previous City policy for calculating the assessment of excess land was to determine the typical site coverage at 30% and to include only 60% of the difference (the excess land) in the assessment. The Board noted that the City's policy with respect to calculating excess land has changed and that those calculations are now included in the assessment model. However, without access to that model, and in attempting to redress what the Respondent felt was an error in a previous year's decision, the Board had no option but to employ the previous policy. Using the process outlined in other materials that were common to this hearing group, and having determined that the actual site coverage was less than 30%, the Board calculated the typical site coverage for the primary parcel as 4.91 acres, leaving 4.48 acres as excess land.

In recalculating the assessment for hypothetical purposes only, the Respondent used \$446,350/acre for the additional land portion, as opposed to \$425,000/acre in the original assessment, and increased the building assessment for the main building from \$84/sq.ft. to \$120/sq.ft. The explanation for the latter was that a smaller parcel with more site coverage would generate a higher sales price although the Board could not find that the Respondent produced such evidence in his disclosure. The Respondent did point to a sale in the Complainant's evidence (9416 40<sup>th</sup> Street S.E.) that indicated a time adjusted rate of

\$118/sq.ft. for a smaller building. Direction for adjusting to the subject was not provided.

The City's valuation of the additional land was contested by the Complainant based on equity and references, as an equitable comparable, a property previously referred to as "Kindersley" which is 19.6 acres and is assessed at \$364,286/acre. While the legal size of the subject parcel is comparable to Kindersley, neither the primary, nor the residual parcel is. Additionally, there are servicing issues with Kindersley which have been discussed in previous decisions. Accordingly, the Board did not accept this as a good comparable but noted another property at 9315 40<sup>th</sup> St. S.E., that is similar in size to the adjusted parcels and has an implied land assessment of \$445,556/acre. It was noted, however, that there are two small buildings and two trailers on that property which were included in the overall assessment. The Complainant requested that a value of \$360,000/acre be ascribed to the additional land for the parcel under complaint. The Respondent provided equity assessment comparables from the same area that value the lands at \$446,250/acre.

The Board did not find that the Complainant provided appropriate property comparisons to reduce the land value to \$360,000. Neither did the Board find any argument or evidence from the Respondent for increasing the original land assessment from \$425,000 to \$446,350. Accordingly, the original assessed value is retained at \$425,000/acre. In determining the assessment for the building, the Board found no clear or comparable evidence to support the increase from \$84/sq.ft. to \$120/sq.ft. and the Board accepted the original assessment of \$84/sq.ft. as the appropriate value in these circumstances. No evidence of costs to subdivide the property or to provide access to the additional lands was provided and no consideration was given for those hypothetical costs.

The Board's reduced assessment is based on:

- |   |             |
|---|-------------|
| 1. 55,810 sq.ft. building calculated at \$84/sq.ft.                               | \$4,688,040 |
| 2. 8,400 sq.ft. building calculated at \$10/sq.ft.                                | \$ 84,000   |
| 3. 4.48 acres of excess land, calculated at<br>\$425,000/acre for 60% of the area | \$1,142,400 |
| 4. 9.38 acres of additional land at \$425,000/acre                                | \$3,986,500 |

for a total of \$9,900,000 truncated.

**Board's Decision:**

The 2011 assessment is revised to \$9,900,000.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF JUNE 2011.



**S. Barry, Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure

*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.*