

**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:

FI Portfolio Inc. (as represented by AEC International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, J. Massey
Board Member, P. Pask***

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 2012 Assessment Roll as follows:

ROLL NUMBER: 009007006

LOCATION ADDRESS: 6735 11 Street NE

HEARING NUMBER: 68456

ASSESSMENT: \$24,290,000.00

This complaint was heard on the 3rd day of July, 2012, at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom One.

Appeared on behalf of the Complainant:

- J. Luong

Appeared on behalf of the Respondent:

- K. Gardiner

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

- (1) None

Property Description:

(2) The subject is comprised of the Finning Caterpillar premises. The property consists of a 129,754 s.f. main warehouse, a second warehouse of 19,600 s.f, and a third building of 600 s.f. The total building footprint is 149,954 s.f. The three buildings were constructed in 1980. The land parcel is 29.98 acres. Site coverage calculates to 11.48 per cent.

Issues / Appeal Objectives

(3) This is a complaint regarding the assessment of the excess land value only. There is no complaint regarding the building assessment.

(4) The issue as set out on page 7 of exhibit C-1, is paraphrased as follows;

"The City of Calgary has assessed excess land for the subject property.....The site has 10% site coverage for industrial properties when strictly dividing the footprint of both buildings by the site area. The City then compares this to typical site coverage for industrial properties in Calgary at 30 per cent. In the case of the subject it is determined to have 881,074 square feet or 20.27 acres of excess land....."

The City's approach in determining an amount for excess land does not consider the present physical placement of the improvements on the site....."

Complainant's Requested Value: \$19,076,000

Evidence / Argument

(5) The Complainant submitted an aerial photograph generated by a "Google" computer mapping program that outlined an area of 10.12 acres that could be readily subdivided and sold from the subject land parcel. The Complainant argues that this is the only area that can be considered as extra land, and that the remainder of the site is included in the building assessment. The Complainant further argues that the existing tenant requires at least 20 or so acres to efficiently carry on their operations on the site.

(6) The Respondent countered by stating that there was no evidential data to show that subdivision of the site would not be approved, or that the existing tenant required a certain land area to carry on business.

(7) The Respondent stated that the subject buildings represent site coverage of 30 per cent on a site of 9.71 acres. This land area is "captured" in the mass appraisal model, and the assessment is included in the building assessment rate. Any land area in excess of the 9.71 acres is considered extra land that could conceivably be subdivided and sold off.

(8) The Respondent produced examples of larger lots in close proximity to the subject that reportedly had been subdivided and sold off as smaller parcels, with the smallest site being 0.43 acres.

(9) In rebuttal, the Complainant produced documentation to show that the opposite of the Respondent's assertion was the case. In reality, the Respondent's examples of subdivision into smaller parcels were, in actual fact, assemblies of smaller parcels into larger sites.

(10) The City presented the Board with the formula being used, and the values being applied, to assess the land component. However, significantly, neither party submitted any market evidence to either prove or disprove the values, or the formulae being used.

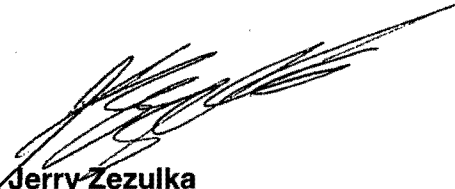
(11) Both parties presented the Board with a past CARB decision dealing with the subject property, and the same issue that is now before the Board. In 2010, the CARB confirmed that the City's treatment of excess land was correct, and confirmed the assessment. In 2011, the CARB comprised of different panel members disagreed with the City and reduced the assessment. This Board is not privy to the evidence submitted in either of those hearings, and therefore not in a position to offer any further comments.

Board's Decision

(12) Much of the argument presented by the Complainant is based on conjecture and unsupported opinion. The Complainant has not questioned the improvement assessment, nor has the Complainant challenged the land rates applied by the City. It is the opinion of this Board that there is not enough evidence to prompt a change in the assessment.

(13) The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF July, 2012.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1.	C1 Evidence Submission of the Complainant
2.	C2 Rebuttal Submission of the Complainant
3.	C3 Colored property overview
4.	R1 Evidence Submission of the Respondent
5.	R2 Colored site plan

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 MGB Administrative Use Only

Decision No. 0932/2012 - P			Roll No. 009007006	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land only	Extra land or excess land	N/A	Allocation and valuation