

**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:

***WWW Trading Ltd.
(as represented by Brenda MacFarland Tax Consulting), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***I. Zacharopoulos, PRESIDING OFFICER
Y. Nesry, MEMBER
P. Charuk, MEMBER***

[1] 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 2011 Assessment Roll as follows:

ROLL NUMBER: 201185717

LOCATION ADDRESS: 7699 110 AV NW

HEARING NUMBER: 63021

ASSESSMENT: \$2,220,000

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on June 24th, 2011 at the office of the Assessment Review Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

[3] Appeared on behalf of the Complainant:

- *Ms. B. MacFarland* *Brenda MacFarland Tax Consulting*

[4] Appeared on behalf of the Respondent:

- *Mr. K. Buckry* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] No procedural or jurisdictional matters were raised.

PROPERTY DESCRIPTION:

[6] The subject property is identified as a vacant land parcel near the intersection of 110th Avenue and 76th Street NW, within the Royal Vista business park in NW Calgary. The record shows the parcel size is 3.41 acres. The assessment reflects a blended rate of \$651,026/acre.

REGARDING BREVITY:

[7] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount".

[9] The Complainant has raised the following issues for the Board's consideration:

1. **Does the Complainant's Direct Sales Comparison Approach (DSCA) to value analysis produce an appropriate market value indicator to support a variance of the subject assessment?**
2. **Does the Complainant's equity analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] \$1,650,000 (as per the Complainant's rebuttal; Doc. C-2).

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] Along with the evidence the parties presented at the hearing the Board referenced the Municipal Government Act (MGA) and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010. The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment is incorrect and if the market value determination as of July 1, 2010 should be revised.

[13] With regard to the individual issues identified above the Board's findings are as follows:

1. Does the Complainant's DSCA analysis produce an appropriate market value indicator to support a variance of the subject assessment?

[14] The Complainant offers a summation of her market evidence under Doc. C-1, pg 5. There the Board finds 7 sales listed, all in NW Calgary, of proximity to the subject property, all sales occurring between September 2009 and July 2010.

[15] The Board finds the Complainant's evidence shows a market range from \$15.59 to \$18.65/square foot (sf). The subject property is shown to be assessed at \$14.80/sf.

[16] In that the Complainant's evidence establishes a value range and the subject assessment falls within that range, the Board finds the Complainant's DSCA analysis does not produce an appropriate market value indicator to support a variance of the subject assessment.

2. Does the Complainant's equity analysis produce an appropriate assessment indicator to support a variance of the subject assessment?

[17] The Complainant offers a summation of her equity evidence under Doc. C-1, pg 5. There the Board finds 9 properties, all in NW Calgary, of proximity to the subject property, all purported to be "similar or superior" to the subject yet showing "similar or lower assessments".

[18] The Board finds the Complainant's chart shows the referenced assessments range from \$11.80 to \$15.95/ft. The subject property is shown to be assessed at \$14.80/sf.

[19] The Complainant makes reference to the Land Title Certificate for the subject property (Doc. C-1, pg 10) and specifically access right-of-way 0510662 as shown on the plan shown under Doc. C-1, pg 13.

[20] The Complainant looks for a reduction of -25% for the impact of this access right-of way (see Doc. C-2, pg 3).

[21] The Board finds the plan referenced by the Complainant under Doc. C-1, pg 13 has been replaced due to subdivision by that shown under Doc. C-1, pg 12. The access right-of way referenced by the Complainant is no longer identified as an access right of way; it now appears to be an unencumbered part of the subject parcel. The remaining utility right-of way referenced in the Land Title Certificate appears on plan to run along the south (rear) portion of the property as it does with the adjoining properties.

[22] The Board finds there is nothing before us to demonstrate the subject property is adversely affected by the utility right-of-way or that the adjoining similarly affected properties show assessments which have been adjusted by a factor of -25%.

[23] Furthermore, the Board finds the subject assessment falls within both the equity and market ranges provided by the Complainant. Additionally, the Board finds the market and equity ranges intersect, showing further support for a scope that includes the subject assessment.

[24] In light of the above, the Board finds the Complainant's equity analysis does not produce an appropriate assessment indicator to support a variance of the subject assessment.

BOARD'S DECISION:

[25] The assessment is confirmed as \$2,220,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF JULY 2011.



I. Zacharopoulos
Presiding Officer

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

NO.	ITEM
1. Doc. C-1	Complainant's Disclosure
2. Doc. C-2	Complainant's Rebuttal
3. Doc. R-1	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.*