

**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:**

***Barry Gould Holdings Limited (Represented by Linnell Taylor and Associates),  
COMPLAINANT***

**and**

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

**before:**

***P Petry, PRESIDING OFFICER  
J Pratt, MEMBER  
S Rourke, MEMBER***

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:

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|--------------------------|----------------------------|
| <b>ROLL NUMBER:</b>      | <b>047043906</b>           |
| <b>LOCATION ADDRESS:</b> | <b>1450 30 Avenue N.E.</b> |
| <b>HEARING NUMBER:</b>   | <b>64762</b>               |
| <b>ASSESSMENT:</b>       | <b>\$2,940,000</b>         |

This complaint was to be heard on the 8th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9. A preliminary issue however arose at the beginning of the hearing and it is that matter which is the subject of this decision of the Calgary Composite Assessment Review Board.

Appeared on behalf of the Complainant:

- Mr. J Mayer

Appeared on behalf of the Respondent:

- *Mr. M Berzins and Ms M Lau*

**Property Description:**

The subject property is a multi tenant industrial office/warehouse located in the South Airways Industrial Park in northeast Calgary. This property is improved with a 19,800 square foot building situated on 2.29 acres of land.

**Preliminary Issue**

The Respondent, City of Calgary brought forward an application to have the CARB set down a date for disclosure of the Respondent's evidence in this matter and a date for the Complainant's rebuttal. This matter had previously been scheduled for merit hearing on June 23, 2011, however, at that hearing there was a preliminary dispute respecting the Complainant's disclosure which had not been received by the Respondent. Based on evidence of filing, before the CARB on June 23, 2011 the Board determined that the Complainant's disclosure had been filed on time and indicated that a new hearing date would be scheduled. Subsequently both parties received a Rescheduled Notice of Hearing dated July 26, 2011 which indicated that the merit hearing of this matter had been rescheduled to 9:00 am August 8, 2011.

This Rescheduled Notice of Hearing did not provide forward disclosure dates for the parties but rather indicated that "no new evidence will be permitted". The Respondent did not pick-up on the need to clarify the matter of disclosure until it was too late to respond prior to the August 8<sup>th</sup>, 2011 hearing date.

Both parties were agreed on the need to allow the Respondent time to submit their disclosure and time for the Complainant to submit its rebuttal if any. The CARB asked the parties to provide it with recommended dates for these submissions and also potential dates for a merit hearing. With some assistance from the CARB the dates show in this decision are the dates found to be agreeable to the parties.

**Findings and Reasons**

The CARB hearing the matters on June 23, 2011 appears not to have provided the parties with its written decision but rather, relied on the ARB administration to simply reschedule the merit hearing. This rescheduling document, wherein it indicates that "no new evidence will be permitted", seems to belie the reason to grant an adjournment or postponement in the first

place. In the first instance, the Respondent had not received the Complainant disclosure and therefore had not made out its response to the Complainant's merit evidence. Nothing had changed in this regard when the August 8<sup>th</sup>, 2011 hearing convened. The Rescheduled Notice of Hearing was only received by the parties on July 26, 2011, 12 or 13 days before the new hearing date and further there appears to be some confusion in this document, as to why the June 23, 2011 CARB granted an adjournment. Therefore the CARB agrees that the Respondent must be given an opportunity to disclose their evidence and also the Complainant must be given an opportunity to rebut that evidence if they choose to do so.

### **Decision of the CARB**

The Board decided the following:

1. The **Respondent** must disclose its evidence in this matter by 4:30 pm on **August 10, 2011**.
2. The **Complainant** must disclose its rebuttal if any by 4:30 pm on **August 16, 2011**.
3. The **merit hearing** of this matter is set down for 9:00am **August 22, 2011** in board room 12 at the City of Calgary ARB Offices

DATED AT THE CITY OF CALGARY THIS 9<sup>th</sup> DAY OF August 2011.



**Presiding Officer**  
**Paul G. Petry**

### **APPENDIX "A"**

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

| <b>NO.</b> | <b>ITEM</b> |
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|------------|-------------|

- |    |                                       |
|----|---------------------------------------|
| 1. | C-1 ARB Rescheduled Notice of Hearing |
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