

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

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

between:

Burnswest Corporation (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Chilibeck, PRESIDING OFFICER

K. Farn, MEMBER

P. Charuk, MEMBER

These are complaints to the Calgary Assessment Review Board in respect of a property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER: 113000640 & 114247000

LOCATION ADDRESS: 7110 & 7100 15 St SE

HEARING NUMBER: 61103 & 61104

ASSESSMENT: \$2,030,000 & \$1,800,000

These complaints were heard on 5th day of July, 2011 at the office of the Assessment Review Board located in Boardroom 2 on Floor Number 4 at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *C. Van Staden*

Appeared on behalf of the Respondent:

- T. Johnson & C. Haut

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

Both parties agreed that the hearing of the complainants for the two said properties can be heard at one hearing.

At the commencement of the hearing the Complainant requested, as a preliminary matter, that the revised assessment record (AES) supplied by the Respondent after the Complainant had filed their documentary evidence, not be accepted by the Board pursuant to s.9(4) MRAC (Matters Relating to Assessment Complaints Regulation, AR 310/2009).

Property Description:

The subject property at 7110 – 15 St, containing 28.22 acres, is used by Burnco for industrial purposes and the subject at 7100 – 15 St, containing 15.8 acres, is used for a golf course (RCGA). Both properties are adjacent to the Bow River in SE Calgary.

The assessment for both properties is determined by using the replacement cost method.

Issue:

Should the Board accept the Respondent's revised AES (assessment explanation supplement) and hear any relative evidence from the Respondent.

Board's Decision in Respect of the Matter:

It is the decision of the Board to postpone the hearing of the complaints for the above said properties to September 22, 2011 at 9 AM in Board Room 3 at the Calgary Assessment Review Board, 4th floor, 1212 – 31 Ave. NE (DJ3 Building).

The Complainant's disclosure must be related only to the revised AES sent by the Respondent on June 9, 2011.

The following timelines must be adhered to:

Complainant disclosure due date: August 11, 2011.

Respondent disclosure due date: September 1, 2011.

Complainant rebuttal due date: September 15, 2011.

Board's Reasons for Decision:

This preliminary matter was brought before the Board by the Complainant because the Respondent supplied the Complainant with AES documents for both properties on three different dates, January 19, May 19 and June 9, 2011. The first two AES's did not provide sufficient information for the Complainant to determine how the assessment for the subject properties was determined. The Complainant was required to file their disclosure evidence by May 24, 2011. It was filed based on the information supplied on the second AES and the Complainant made some assumptions as to the breakdown of the total assessment between land and improvements.

On June 9, approximately two weeks after the Complainant filed their disclosure and before the Respondent sent their disclosure, the Complainant received a revised AES for each property. The Complainant subsequently received the respondent's disclosure on June 21 based on the revised AES.

The Assessor for the Respondent called the Complainant on June 24 to discuss the revised AES's and the possibility of a postponement of the July 4 hearing date. The Complainant advised that they required more time to discuss the matter with the property owner and to review the revised AES's in detail. The Complainant proceeded to file their rebuttal disclosure on the due date, June 27.

The Complainant claims that there are some twelve differences in the information provided between the second and third AES's and for one property the assessment is different from the original assessment. The Respondent stated that they would be asking the Board to change the assessment accordingly.

The first two AES's supplied by the Respondent showed the total assessment only. As these assessments are determined by the cost method, there should be a breakdown of this total between land and improvements; this breakdown was shown on the revised AES's. The Board noted that the breakdown of the total assessment on the revised AES's differs from that determined by the Complainant and accepts the Complainant's assertion there are several other differences between the revised AES's and the original AES that would require additional time to investigate and properly respond to at a hearing. Some of the differences are related to the number of buildings and possibly the valuation of those buildings whereas the Complainant's original intention was to challenge the valuation of the land only.

The Board finds that the Respondent did not provide sufficient information to the Complainant in their first two AES's that resulted in the Complainant making assumptions in filing their disclosure and because the Respondent provided revised AES's which included revisions to the assessments late in the disclosure process, the Board's decision is to postpone the hearing of the subject complaints.

In order to attain a correct property inventory and a correct valuation for each property and in consideration of the above said circumstances, the hearing of the complaint on each subject is postponed to allow the Complainant and Respondent to address any issues that may arise from the revised AES's.

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

A handwritten signature in black ink, appearing to read "M. Chilibeck", written over a horizontal line.

**M. Chilibeck
Presiding Officer**

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

NO.	ITEM
1. C1-P	Complainant Rebuttal

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.*

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Decision No. 1279-2011-P		Roll No. 113000640 & 114247000		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Procedural	Amended Assessment	Expansion of Time	N/A