

**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:**

***Enders Management Ltd. (as represented by Assessment Advisory Group Inc.),  
COMPLAINANT***

**and**

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

**before:**

***K. D. Kelly, PRESIDING OFFICER  
D. Julien, MEMBER  
P. Pask, 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:

<b>ROLL NUMBER:</b>	<b>048043400</b>
<b>LOCATION ADDRESS:</b>	<b>1726 – 25 AV NE</b>
<b>HEARING NUMBER:</b>	<b>64567</b>
<b>ASSESSMENT:</b>	<b>\$3,540,000</b>

This complaint was heard on the 7<sup>th</sup> day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- Mr. T. Howell, Assessment Advisory Group Inc.

Appeared on behalf of the Respondent:

- Mr. M. Berzins, Assessor, City of Calgary

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

The Complainant presented his Brief C-1 to clarify his arguments as to why he considered the assessment to be incorrect. The Complainant noted he was unable to find any market sales comparable to the subject. Therefore he identified three northeast Calgary industrial properties where the year-over-year assessments of each of them had declined by 12.1%; 10.4%; and 8.7% respectively. Thereafter, the Complainant requested the Board to reduce the assessment of the subject by 10.4% to \$3,170,000, the 10.4% value being an average percentage of the 3 referenced properties.

Upon completion of the Complainant's presentation, the Respondent declined to advance any questions of the Complainant's evidence.

Instead, the Respondent respectfully requested the Board to provide an immediate ruling as to whether or not the Complainant had met the onus required of him in relevant legislation, that being to demonstrate via comparable market sales evidence, that the subject's assessment is incorrect. He argued that an apparent year-over-year percentage increase/decrease is insufficient.

The Board recessed to consider the Respondent's request.

Upon re-convening the Hearing, the Board advised the Parties that upon review of the evidence provided by the Complainant, it was the Board's view that the onus required of him in these matters had not been met in this instance in this hearing.

The Board clarified that there have been many Municipal Government Board (MGB) and Calgary Assessment Review Board (ARB) Decisions which speak to this issue, that year-over-year increases/decreases are not, of themselves, valid reasons for an Assessment Appeal Board to change or amend an assessment. Therefore the Board would not be requesting the Respondent to provide his Brief in this hearing and would be opting to confirm the assessment at \$3,540,000.

**Property Description:**

The subject is assessed as a 1981 (year of construction – YOC) single-tenant industrial warehouse with a 39,808 square foot (SF) building footprint and 43,012 SF of assessable area. It has 52.96% site coverage with 15% office finish on a 1.73 acre (AC) site in South Airways industrial park. The subject is assessed at \$3,540,000 based on \$82 per SF.

**Issue:**

1. The subject is incorrectly assessed when one considers the year-over-year percentage decreases of comparable properties, and this is inequitable.

**Complainant's Requested Value:** \$3,170,000

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

**Issue # 1**      "The subject is incorrectly assessed when one considers the year-over-year percentage decreases of comparable properties, and this is inequitable."

The Complainant provided his Brief C-1 and outlined the assessable characteristics of the subject via the City's "Assessment Summary Report". He also located the subject in the city and South Airways industrial park by using maps and exterior photos of the subject.

The Complainant clarified that while he provided a number of Alberta Data Search and Real Net market sales on pages 9, 10, and 11, of C-1, he considered none of them to be comparable to the subject. Therefore he had not used any of them, or any other market sales whatsoever in his analysis.

Instead, the Complainant referenced a property at 3601 – 21 ST NE and noted its assessed value had declined by 12.1% year-over-year. He then referenced 2711 – 5 AV NE and noted its assessment had declined by 10.4% between 2010 and 2011 as well. Finally, the Complainant referenced 2299 – 20 AV NE and noted its assessment declined year-over-year by 8.7%.

Consequently the Complainant requested the Board to reduce the assessment of the subject by 10.4%, that being the average year-over-year assessment reduction of the three referenced properties.

**Board's Direction**

The Respondent requested that the Board make an immediate ruling as to whether or not the Complainant had met the onus required of him to demonstrate that the assessment is incorrect. Depending on the Board's ruling the Respondent would decide whether or not to submit his evidence Brief.

The Board recessed to consider the Respondent's request. Upon re-convening the hearing, the Board decided that the onus had not been met by the Complainant, and directed that the Respondent did not have to submit his evidence Brief or make comment.

**Board's Decision:**

The assessment is Confirmed at \$3,540,000.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF August 2011.

  
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K. D. Kelly  
Presiding Officer**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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1. C-1	Complainant Disclosure Brief
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*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.*