

**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:

***Stoney Industrial Management Ltd. c/o CB Richard Ellis Alberta Ltd.  
(as represented by Altus Group Limited), COMPLAINANT***

and

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

before:

***J. Krysa, PRESIDING OFFICER  
D. Pollard, MEMBER  
A. Wong, MEMBER***

This complaint to the Calgary Assessment Review Board is 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>447000126</b>
<b>LOCATION ADDRESS:</b>	<b>10221 15 St NE</b>
<b>HEARING NUMBER:</b>	<b>63907</b>
<b>ASSESSMENT:</b>	<b>\$2,460,000</b>

The complaint was heard on June 27 and 28, 2011, in Boardroom 2, at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. Van Staden

Appeared on behalf of the Respondent:

- K. Haut, K. Hess

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

At the commencement of the hearing the Complainant raised a jurisdictional matter with respect to the sufficiency of the summary of testimonial evidence included in the Respondent's exhibits for some of the hearings on the agenda for the day. The Complainant argued that upon hearing the Respondent's evidence the deficiency of the Respondent's summary of testimonial evidence will be clearly evident to the Board. In response to questions from the Respondent, the Complainant submitted that the request was not for additional information, but rather that costs should be awarded against the Respondent.

The Respondent argued that there was no mention of a cost application in any of the Complainant's rebuttal materials, and in any event the hearings should proceed as the Board would need to hear all of the evidence to determine the sufficiency of the Respondent's summary of testimonial evidence.

**Decision:**

In light of the positions of the parties, the Board decided to proceed with hearing the merits of the complaints as scheduled, and directed the Complainant to make any application for costs pursuant to s.52 of *Matters Relating to Assessment Complaints Regulation, Alberta Regulation 310/2009*, within 30 days of the conclusion of the hearings for those specific complaints where sufficiency of the summary of testimonial evidence was at issue. This would allow the Respondent an opportunity to respond to the cost application at a hearing of that matter.

**Property Description:**

The subject property is a 59.50 acre parcel of vacant land located at the northeast junction of Airport Trail NE and Deerfoot Trail NE. As of September 14, 2009, the property is assigned two separate Land Use Designations; IB – to those areas adjacent to the abovementioned roadways, and IG – to the remaining area without exposure to the said roadways.

The 2011 assessment notice sets out the following assessment values for the subject property, with corresponding details on a per acre basis:

Component	Assessment	Area	Assessment per Acre
Non Residential	\$2,443,272	3.0 Acres	\$814,424
Farmland	\$ 16,728	56.5 Acres	\$ 296
<b>Total</b>	<b>\$2,460,000</b>	<b>59.5 Acres</b>	<b>\$ 41,345</b>

**Issues:**

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment
4. an assessment class

At the commencement of the hearing the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter 3, an assessment amount.

Although the Complainant set out 10 grounds for complaint in section 5 of the complaint form with a requested assessment of \$466,726, at the hearing the Complainant withdrew objectives #1 and #2 as set out on C1, page 2, and proceeded with the following issues:

Issue 1: The assessed value of the 3 acre site exceeds its market value.

Issue 2: The assessed value of the 3 acre site is inequitable to that of similar, adjacent sites.

The parties were in agreement that as of December 31, 2010, the property was used for farming operations as defined in s.1 of *Matters Relating to Assessment and Taxation Regulation, Alberta Regulation 220/2004*, and there was no issue with respect to the "agricultural use value" of \$16,728 for the 56.5 Acre farmland component.

**Complainant's Requested Value:** \$390,500

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

**Issue 1:** The assessed value of the 3 acre site exceeds its market value.

The Complainant submitted a summary of four land sale transactions that occurred within 18 months of the valuation date of the assessment, which consisted of parcels from 2.098 Ac, to 4.86 Ac., exhibiting a value range of \$270,000 to \$329,000 per acre, and a median of \$323,308 per acre. The Complainant argued that the median rate, rounded to \$325,000 per acre would equate to a market value of \$975,000 for the 3 acre site. When added to the farmland component value, an assessment value of \$990,000 (truncated) was evident [C1, pp.10-11].

The Complainant argued that there is no road access, nor streetlights or boundary servicing to the subject property; and further, although the subject property may have adjacent servicing, the costs associated with accessing the services would reduce the value of the subject lands in relation to the sales comparables provided, two of which were fully serviced industrial lots located in established industrial neighbourhoods. As a result, the value estimate of \$990,000 would represent the upper limit of value of the subject property.

In support of the above land rate, the Complainant also included three land sale transactions that occurred in 2008, for large parcels from 59.54 Ac. to 257.57 Ac., one of which was the subject property, exhibiting a value range of \$191,914 to \$280,500 per acre [C1, pp.10-11].

In cross examination, the Complainant conceded that the sale price and corresponding rate per acre of the 2.098 acre parcel located at 10710 85 St NW was incorrect, and based on the RealNet document located at C1, p.15, should reflect a sale price of \$1,460,000, equating to \$695,901 per acre, rather than the \$317,398 per acre set out in the summary. The Complainant argued that notwithstanding the error, the calculated median would remain the same.

The Respondent submitted that the subject property has been assessed as farmland, however, as the parcel can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel, an area of 3 acres has been assessed at market value pursuant to s. 3(d) of *Matters Relating to Assessment and Taxation Regulation, Alberta Regulation 220/2004*.

In support of the 3 acre site assessment of \$814,424 per acre, the Respondent provided a summary of three northeast Calgary industrial land sale transactions that occurred between July 2008 and February 2009, of parcels from 0.872 Ac. to 5.511 Ac., exhibiting a value range of time adjusted sale prices from \$732,625 to \$926,032 per acre, and median and average sale prices per acre of \$809,688 and \$822,782 per acre, respectively [R1, p.50].

In response to the Complainant's sales summary, the Respondent argued that the \$695,901 per acre sale price of 10710 85 St NW, would reflect the irregular shape of that parcel, and an adjustment of +25% would be required to establish a typical market rate applicable to the subject property. The Respondent also submitted a RealNet document with respect to the property located at 7777 110 Ave NW indicating that the property resold in October 2009 for \$1,904,000, equating to \$700,515 per acre, in contrast to the August 2009 sale price in the Complainant's summary at \$270,000 per acre. The Respondent suggested that the sale price of this property would reflect its limited and restricted access. The Respondent further argued that the Complainant's remaining sales were not comparable to the subject as they were of inferior land use designations at the time of sale, and were an estate sale in one instance and affected by annexation the other instance.

The Respondent also argued that the 2008 sale of the subject property at \$191,914 per acre reflected the inferior S-FUD (Special Purpose - Future Urban Development) land use designation and lack of access to adjacent services at the time of sale, as well as the significantly larger 59.5 acre site area in contrast to the current 3 acre "I-G" site value required by the legislation.

In response to the Respondent's arguments, the Complainant agreed that the S-FUD land use designation of some of the sales was inferior to that of the subject, however, as the 3 acre site required by the legislation was undeveloped as of December 31, 2010, the sales would be comparable to the subject property. Further, the Complainant argued that the sale prices of S-FUD zoned properties would not be affected in a material way as these types of properties can often be developed and sold quickly.

**Decision: Issue 1**

The Board finds that the assessed value of the 3 acre site exceeds its market value.

With respect to the sales provided by the Complainant, the Board finds that the sales of the properties with "Industrial" land use designations are relevant evidence of the market value of industrial land, however, the Board accepts the Respondent's evidence of the more recent sale of 7777 110 Ave NW at \$700,000 per acre as being typical of the market. The sale of the same property only two months earlier at \$270,000 per acre is clearly an outlier when compared to the other industrial land sales submitted in evidence from both parties. With respect to the Respondent's argument of a +25% "shape" adjustment to the \$695,901 sale price per acre of 10710 85 St NW, the Board finds that there was no evidence presented in support of that adjustment.

The Board does not accept that sales of properties with inferior land use designations are relevant indicators of market value for industrial lands, as the sales evidence clearly reflects a significant difference in the sale price per acre between industrial lands and the lesser zoned sites, and there was no evidence to support the Complainant's argument that the sale price per acre would be similar due to the often rapid timing of development.

The Board finds that the 2008 sale of the subject property is of little value in establishing the value of a 3 acre site as of the July 01, 2010 valuation date of the assessment, due to different physical characteristics (availability of adjacent services), different land use designations (S-FUD vs. I-G and I-B), and economy of scale with respect to parcel size (59.5 Ac. vs. 3 Ac.).

With respect to the sales provided by the Respondent, the Board accepts that the sales of the properties are located in well established, serviced industrial subdivisions, in contrast to the physical characteristics of the subject property as at December 31, 2010, and no adjustments were presented to relate those properties to the subject property. The Board also finds that the sales of properties less than 2 acres in size are dissimilar to the subject property due to economy of scale, resulting in an inflated average and median rate per acre.

The resulting relevant indicators of market value are set out as follows:

<b>Property</b>	<b>Sale Price</b>	<b>Acres</b>	<b>Sale Price / Ac</b>
10710 85 St NE	\$1,460,000	2.098	\$695,900
7777 110 Av NW	\$1,904,000	2.72	\$700,000
4300 21 St NE	\$4,750,000	5.511	\$732,625

The Board finds that the most recent sale of 7777 110 Ave NW at \$700,000 per acre most appropriately reflects the value of the subject property, as it is of a similar land use designation, it is located in a relatively new subdivision, and it suffers from access issues as does the subject property. The rate per acre is also supported by the range of the other, comparable sales presented in evidence and set out above.

**Issue 2:** The assessed value of the 3 acre site is inequitable to that of similar, adjacent sites.

The Complainant presented the assessment summary reports of two properties adjacent to the subject, that are assessed at rates of \$125,000 and \$150,000 per acre, in contrast to the assessed rate of the 3 acre site of the subject property at \$814,424 per acre. The Complainant argued that the subject is not substantially different from these equity comparables, as no boundary servicing is in place, no plan of subdivision has been approved, no grading has been undertaken, and the subject's industrial land use designation has little effect until the property has had subdivision approval. The Complainant suggested that the assessment should therefore be calculated as follows:

3 Acre site @ \$125,000 per acre =	\$375,000
Farmland component	\$ 15,620
Total assessment (truncated)	\$390,500

The Respondent argued that the Complainant's equity comparables were dissimilar to the subject property as they have an inferior land use designation of S-FUD, and are used for institutional purposes. In support, the Respondent submitted sections of the Land Use Bylaw that pertain to the land use designations of the subject property and the comparables to illustrate the differences.

**Decision: Issue 2**

The Board finds that there was no evidence that the assessed value of the 3 acre site is inequitable to that of similar, adjacent sites.

The Board does not accept that the equity comparables submitted by the Complainant are similar to the subject as a result of the inferior S-FUD land use designation assigned to the comparables, in contrast to the I-G and I-B designation assigned to the subject property. As a result, the Complainant has not demonstrated that an inequity exists.

**Board's Decision:**

The assessment of the 3 acre site is revised to a rate of \$700,000/Acre:	\$2,100,000
The assessment of the 56.5 acre farmland component is unchanged at:	\$ 16,728

The total assessment (truncated) is revised from \$2,460,000 to **\$2,110,000.**

DATED AT THE CITY OF CALGARY THIS 29 DAY OF July, 2011.

  
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J. Krysa  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3. R2	Aerial Photographs
4. C2	Complainant's 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.*