

**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:

***Westfield McCall Lake Industrial Ltd. (as represented by Fairtax Realty Advocates),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
J. Kerrison, MEMBER
R. Roy, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 033043605

LOCATION ADDRESS: 1338 – 36 Avenue NE, Calgary AB

FILE NUMBER: 66476

ASSESSMENT: \$8,280,000

This complaint was considered on the 15th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *No representation*

Appeared on behalf of the Respondent:

- *George Bell*

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

[1] This complaint was dismissed by the Board due to lack of compliance with the Municipal Government Act (MGA) and Regulation 310/2009 (MRAC).

AR 310/2009 Matters Relating To Assessment Complaints Regulation

Disclosure of evidence

8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

Failure to disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

[2] The Assessment Review Board Complaint form was submitted on March 2, 2012. In Section 5 of the form, the Complainant stated that it was the owner's position that 1) the vacancy rate used in the income approach calculations was too low and that the market rental rate was too high. A recalculation of the income approach with changes to those two input factors indicated a value of \$6,741,718 which was truncated to the Complainant's requested assessment of \$6,740,000.

[3] The hearing notice mailed to the Complainant stated the due date for Complainant's Disclosure was July 3, 2012. No disclosure was received from the Complainant prior to the due date and as at the hearing date of August 15, 2012, there had still been no disclosure made by the Complainant.

[4] The Complainant failed to comply with the requirements of MRAC Sections 8 and 9, therefore the complaint is dismissed.

[5] The 2012 assessment is confirmed at \$8,280,000

DATED AT THE CITY OF CALGARY THIS 21st DAY OF Aug 2012.



W. Kipp
Presiding Officer

