

**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:

Canadian Property Holdings Inc. (as represented by the Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***P Petry, PRESIDING OFFICER
D Julien, MEMBER
J Rankin, 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:

ROLL NUMBER:	201517315
LOCATION ADDRESS:	2525 36 Street N.E.
HEARING NUMBER:	63299
ASSESSMENT:	\$198,340,000

This complaint was to be heard on the 21st day of July, 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. D Hamilton and Ms K Lilly

Appeared on behalf of the Respondent:

- Ms K Hess and Ms B Thompson

Property Description:

The subject property is classified as a regional shopping centre and is known as the Sunridge Mall. This property has its main frontage along 36 Street N.E.

Preliminary Issue

The Respondent, City of Calgary brought forward an application to have the CARB rule that the entirety of the Complainant's disclosure or evidence in this matter be found as inadmissible in accordance with section 9 (3) of the Matters Relating To Assessment and Complainants Regulation (MRAC). This section of the regulation reads as follows:

"9 (3) A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor."

The City of Calgary acknowledged that this issue was being raised at a late hour in the process and that the Complainant had only been informed that this matter would be raised with the CARB, late last evening, July 20, 2011. The Complainant confirmed that the email from the City of Calgary indicated that this matter would be raised at the July 21, 2011 hearing, however it was only received at approximately 11:00 PM July 20, 2011 and further that the Complainant has no idea of why this application is being made nor knowledge of what evidence the City would be relying on in support of such an application.

The Board provided the parties with a brief recess to allow them to confer on the substance of the City's application and supporting evidence. When the hearing reconvened the Complainant informed the CARB that the City of Calgary application has very serious implications and in fairness, the Complainant should be granted a postponement of the merit hearing to allow the Complainant time to review the City of Calgary's application, supporting evidence and argument. The Board explored whether it would be possible to proceed with the merit hearing allowing for specific objections to be raised on only the Complainant's evidence which is in dispute relative to MRAC 9 (3)? The Respondent argued that it takes the position that the

CARB is barred virtue of MRAC 9 (3) from hearing "any" of the Complainant's evidence including its rebuttal evidence. The CARB indicated that should a request for postponement be considered it would have to be in writing and dates for both a future preliminary hearing and merit hearing would have to be found. The CARB again provided the parties with a brief recess to consider the question of future hearing dates and exchange dates for materials related only to the preliminary issue which has arisen in this case. The parties were also asked to review the possibility of any preliminary issues which may arise relative to two other regional shopping centres scheduled for hearing the week of November 7, 2011.

When the hearing reconvened the Complainant provided the CARB with its written request for postponement dated July 21, 2011. This letter also provided the CARB with dates for a future preliminary hearing and exchange dates for that matter as well as dates for rescheduling of the merit hearing of this complaint.

Decision of the CARB

The Board decided that it could not proceed without first determining the preliminary matter before it and therefore in fairness to the Complainant finds that the circumstances in this case warrant the granting of a postponement to facilitate the exchange of information which will allow the Complainant to become aware of the case being brought by the City of Calgary and to prepare for a preliminary hearing of that matter. The CARB also rules that there shall be no further disclosure or exchange of additional evidence respecting the merit matter in this case. The following dates are therefore set down for the hearing of these matters and for the disclosures of the parties pertaining thereto:

October 24 th , 2011	Preliminary hearing of the City of Calgary's application respecting MRAC 9 (3). Any preliminary issues pertaining to hearings of roll numbers, -- and --- scheduled for merit hearings on November 7, 2011 will also be included in this preliminary hearing and the following exchange date will also apply.
October 3, 2011	The City of Calgary's disclosure respecting their application
October 12, 2011	The Complainant disclosure in response to the City of Calgary's evidence.
October 19, 2011	City of Calgary's rebuttal if any

All of the above dates were agreeable to the parties and disclosures are **due** at the receiving party and ARB offices **by 4:30 pm** on the date shown above.

The merit hearing of this complainant has been rescheduled to November 14 and 15, 2011.

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



Presiding Officer
Paul G. Petry

APPENDIX "A"

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

NO.	ITEM
1. C-3	Complainant's request for postponement