

**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:

Western Steel Ltd (as represented by Cushman & Wakefield Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

F. W Wesseling, PRESIDING OFFICER

J. Lam, MEMBER

P. Charuk, 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: 075103150

LOCATION ADDRESS: 2601 52 Street SE

FILE NUMBER: 66085

ASSESSMENT: \$14,310,000

This complaint was heard on 20st 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:

- J. Goresht
- S. Ubana

Appeared on behalf of the Respondent:

- R.T. Luchack

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

The complainant requested to speak to Section 9(4) of *Matters Relating to Assessment Complaints Regulation (MRAC)* and this Board's jurisdiction to hear certain evidence submitted by the Respondent that was not provided by the City in response to requests made under Sections 299 and 300 of the *Municipal Government Act*. The Board reviewed the matter and because the Complainant could not produce documentation with regard to information request, the request to delete certain information (pages 15-19 of R1) from the Respondent's Assessment Brief was denied.

Property Description:

[1] The subject property is located in the Forest Lawn industrial area and is accessed from 52 Street a major North-South transportation corridor. The triangular property contains 41.43 acres and is vacant. The City of Calgary Land Use Bylaw designates a portion of the site with an "Industrial-Edge" designation while the majority of the site is designated "Industrial-General".

Issues:

The Complainant raised the following matter in Section 4 of the Assessment Complaint form:
Assessment amount

Presentation of the Complainant and Respondent were limited to:

- Assessment market value is overstated in relation to comparable properties.
- Influence Factors

Complainant's requested Value: \$11,670,000

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

[2] Complainant's Position: The subject site was reviewed in terms of its location, access, current use and shape. The Complainant is seeking an additional adjustment for shape (-25%) in addition to the diminishing returns acre adjustment.

[3] The Complainant reviewed the 2012 Industrial Land Values (C1, p26) and Influence Adjustments (C1, p27) and how they impacted this particular site. The classification under the

Land Use Bylaw impacts the valuation of the property and precise area calculations are warranted. Three examples (C1, p10) of mixed classification sales comparables were presented by the Complainant. One was from the NE quadrant and two were from the NW quadrant ranging in size from 24 to 237 acres. No time adjustments had been applied as these property sales were prior to 2010. In particular the diminishing returns acre adjustments were focused on. A proposed recalculation for the subject property was outlined (C1, p11).

[4] Respondent's Position: During the preparation for this hearing the Assessor determined that an error was made in the calculation of the assessment. In addition, it is further determined that the adjustment of -25% for limited access is no longer appropriate for the subject property. As such the respondent requests that the assessment be amended to reflect these changes and be established at \$18,550,000.

[5] The City takes the position that the shape of the parcel due to its size does not impact on its value and as such an adjustment for shape has never been applied or considered warranted. Access from 52 Street to and from the subject property exists and as such the City determines that the adjustment factor should no longer apply. Both parties provided limited information for the Board's consideration with regard to access.

[6] In rebuttal, the Complainant provided information on influence adjustments on seven comparable properties and issues of equity were addressed. The comparables varied in size from 1.96 acres to 31.62 acres. The assessment per acre varied from \$124 to \$312 per acre. The largest comparable parcel is a Mobile Home Park. The Complainant also brought forward five sales which were not time adjusted, one sale transpired in 2007, three in 2005 and one in February of 2011. The later parcel is unserviced and therefore not similar to the subject site.

Board's Decision:

[7] Upon reviewing information provided by the parties, the Board found that the Complainant failed to demonstrate that the assessment was in excess of market value.

The Board confirms the assessment at \$14,310,000.

Reason:

- The Board found that the comparable data presented by the Complainant was not similar to the subject property in terms of size, location and land use classification.

- The requested shape influence adjustment was not substantiated by appropriate data and information and as such could not be supported by the Board

- From the Board's perspective the request by the City to increase the assessment by removing the influence adjustment for limited access and correcting a calculation error was denied as limited information was provided for consideration. The aerial photographs provided did indicate a median on 52 Street which permitted access to the subject site from one direction only.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF Sept. 2012.


F. Wesseling
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1 Disclosure of Evidence	Complainant Disclosure
2 C2 Disclosure of Evidence	Complainant Disclosure
3 C3, C4, C5 Rebuttal	Complainant Disclosure
2. R1 Assessment Brief	Respondent Disclosure

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.

For MGB Administrative Use Only

<i>Decision No.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Equity	Influence adjustments	Request for increase in assessed value