

**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:

Sedock Holdings 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: 100012608

LOCATION ADDRESS: 820 59 Ave SE

FILE NUMBER: 65648

ASSESSMENT: \$4,790,000

This complaint was heard on 23rd 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:

- *Daniel Sekhon*
- *Ruben Sekhon*
- *Harry Sekhon*

Appeared on behalf of the Respondent:

- *R.T. Luchak.*

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

[1] No specific jurisdictional or procedural matters were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint

Property Description:

[2] Subject property is located in the Burns Industrial Park. The site contains 3.66 acres and is located adjacent to the former Blackfoot landfill site. Environmental issues are present on the site. Two buildings are located on the site; firstly an industrial warehouse constructed in 1999 containing 18,688 square feet, secondly a multi bay office building built in 2007 consisting of 15,285 square feet. The City of Calgary Land Use Bylaw classifies the site with an "Industrial-General" classification.

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.

Complainant's Requested Value: \$2,800,000

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

[3] Complainant's Position: The Complainant provided a detailed history of the site in terms of the environmental issues experienced due to its proximity to a former landfill as well as the valuation of the property by the City dating back to 2002. An appraisal prepared by Altus Group Ltd and dated July 1, 2011 was submitted however a copying error by the Complainant resulted in the parties and the Board having access only to every other page of the report. The uniqueness of the site was emphasized however relevant information was not included in the disclosure.

[4] Environmentally the site faces many concerns. Due to methane concerns, special considerations are in place for building construction, methane containment and venting as well

future developability of the site. It is acknowledged that from a property assessment perspective a negative adjustment of 30% is applied to assessment as a result of the environmental concerns.

[5] The issue of municipal services was raised in terms of water, sewer and storm services as well as roadway connections. The issues raised with regard to municipal services are long standing and are beyond the scope of the Composite Assessment Review Board.

[6] The appraisal report submitted attempts to value the property using the income and direct comparison approach. The direct comparison approach outlined a summary of sales and resulted in a value determination of the property of \$4,000,000. The income approach outlined resulted in an estimated value of the property of \$3,900,000. To determine the requested assessment of the property, the complainant applied the 30% negative environmental influence factor to \$4,000,000. Adjustments applicable to the comparison were not disclosed due to the copying error.

[7] Respondent's Position: The City based its estimate of value on the sales approach and then applied a reduction of 30% to account for the environmental concerns. Four sales comparables were provided of similar sized properties. From the City's perspective the site is fully serviced as all municipal utility services are available at the property line.

[8] The respondent expressed serious concerns with the appraisal submitted by the Complainant. In particular, the comparable properties used in the appraisal were questioned in terms of their age and that they only contain one building whereas the subject property contains two substantial buildings. Adjustments to the valuing of these properties were not outlined nor was there an indication adjustments were applied. In addition, the income approach outlined in the appraisal was put in doubt as the parameters utilized were not explained and substantiated. The higher capitalization rate applied was not supported by data.

[9] In rebuttal, the Complainant defended the appraisal submitted and reiterated the uniqueness of the property. The exposure of this site to methane contamination and its impact on the use of the site are high and affect the value significantly. It has resulted in high vacancy rates in the office building. The servicing of the subject property was re-addressed however the issues (recovery of installation costs) outlined are beyond the scope of this Board. Concern was expressed with the City 'sales comparables as not being similar to the subject site.

Board's Decision:

[10] Upon reviewing the verbal and written evidence 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 \$4,790,000.

Reasons:

- Environmental issues with the subject site are not in dispute, it is recognized by both parties. The 30% environmental influence factor is appropriate and applied by both parties.
- Servicing of the site is not in dispute from the Board's perspective as it relates to assessment. Both parties agree the site is serviced. Issues related with the costs of installing those services appear to be long standing and should be addressed by the Complainant by other means and not through the assessment complaint process as it is beyond the Board's authority to deal with.
- The only substantive information the Board had at its disposal was the appraisal

submitted by the Complainant however due to the missing information the Board could place little weight on it. In particular, the comparable properties used in the appraisal were questionable without additional data and appropriate adjustments.

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



F.W. Wesseling
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1 Roll#100012608 Complainant Submission	Complainant Disclosure
2. C2 Complainant Rebuttal	Complainant Disclosure
3. 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.

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Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Office Bld vacancy	Proximity to landfill	Income approach and equity