

**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:

***Instorage (42ND AVE) Limited (as represented by AEC International Inc.)
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
A. Blake, MEMBER
A. Wong, 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:	201307758
LOCATION ADDRESS:	1111 – 42 AV SE
HEARING NUMBER:	63249
ASSESSMENT:	\$4,920,000

This complaint was heard on 26th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *Mr. C. Hall - AEC International Inc.*

Appeared on behalf of the Respondent:

- *Mr. J. Greer - Assessor, City of Calgary*

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

None

Property Description:

The subject is a self-storage (SS) four-building complex built in 2007. The total leasable area is said to be 83,262 Square Feet (SF) with another 18,738 SF for access, hallways, and a small sales office. Some 80% of the units are described as being climate-controlled and inside accessed. It is located on a 3.4 acre (Ac.) "L" shaped site and is assessed using the Cost Approach to Value methodology at \$4,920,000.

Issues:

1. The subject is incorrectly and improperly assessed using the Cost Approach to Value methodology and the assessment is therefore incorrect and inequitable.

<u>Complainant's Requested Values:</u>	"Direct Capitalization"	- \$3,180,000
	"Cost Approach" (corrected)	- \$4,244,000
	"Equity"	- \$3,146,000

Upon conclusion, the Complainant requested the final value of \$3,180,000.

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

<u>Issue #1</u>	"The subject is incorrectly and improperly assessed using the Cost Approach to Value methodology and the assessment is therefore incorrect and inequitable."
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Valuation Considerations - Complainant

The Complainant argued that the subject operates on the basis of short-term 30-day leases for each of its over 200 defined rental units. Consequently it is a "cash business" and should therefore be assessed using the Income Approach to Value valuation methodology and not the Cost Approach to Value methodology used by the City. He stated that the country-wide self

storage industry in general, and professional Appraisers in particular, tend to value such properties on this basis.

In support of this position, on pages 67 to 69 of his Brief C-1 the Complainant provided selected excerpts from an unidentified "Appraisal Institute" document evidently authored by a Richard R. Correll wherein the author is quoted as saying:

"In the valuation of existing self-storage properties, the cost approach is generally not relevant for several reasons:

1. The estimates of value generated by the sales comparison and income capitalization approaches are often well-supported and persuasive, while the depreciation estimates needed to apply the cost approach are often difficult to support.
2. Market participants including owners, investors, developers, and brokers do not rely on depreciated cost estimates as a basis for estimating prices
3. The cost to replace an existing property has little relevance to the "as is" value of the property.

*Market Analysis and Valuation of Self-Storage Facilities, page 42-43
Richard Correll, Appraisal Institute, 2003, ISBN 0-922154-77-5 "*

On page 69 of C-1 the Complainant provided selected excerpts of articles from two self-storage industry participants that he argued supported the "Correll" position. In addition, the Complainant provided selected excerpts from the "Alberta Assessors Association Valuation Guide – Special Purpose Properties" referencing the selective use of the Cost Approach methodology in the context of Mass Appraisal.

The Complainant suggested that in his view, these articles also support his position that the City had erred in using the Cost Approach to Value to assess the subject, instead of the industry-recognized Income Approach to Value.

The Complainant argued on page 5 of his Brief C-1 that :

"This year the assessment has, for the third year in a row, been determined on the premise that:

- The property is special purpose;
- Building B is a 63,600 sq. ft. single storey structure;
- All buildings are 13 feet high;
- Self-storage income information is unavailable, and,
- Self-storage properties seldom trade"

The Complainant argued that these factors are largely incorrect and this has led to an incorrect assessment.

The Complainant argued that the subject is experiencing declining business due to intense competition from other self-storage properties such as the Maple Leaf South self-storage site at 803 – 64 AV SE and is generally now only 50% occupied. Consequently the sale of ancillary items such as locks, boxes, and tape for example (representing some 6% of revenues) was also in decline. He also argued that the subject now has several years of "financial history" and therefore a reasonably accurate indication of income and expenses is now available for the subject to more accurately predict its market value using the Income Approach to Value.

On pages 63 and 64, the Complainant produced two line graphs (Schedules "G" and "H") to demonstrate firstly "Revenue Volatility" and secondly "Stabilized Occupancy" at three Alberta facilities said to be self storage properties. None were the subject. One location was said to be in Edmonton, while the other two were said to be Calgary locations at 4201 – 52 ST SE, and 4687 Barlow Trail. The two graphs purported to illustrate an apparent downward market trend in the industry as measured in part by these two factors.

Nevertheless, in presenting the graphs entitled "Monthly Revenue at Stabilized Occupancy Before Allowances at Three Alberta Facilities" between approximately March 2007 and January 2010, and, "Stabilized Occupancy, Three Alberta Facilities" between the same time period, the Complainant was unable, in response to questions, to document the values used in developing them. Moreover, since the Complainant had not supplied specific financial statements from the subject, it was difficult if not impossible to relate and compare the graphed data to the subject.

The Complainant further argued that the subject is not a "special purpose" building as alleged by the City but rather is a "purpose-built building, designed for leasing small, secure spaces to middle-class, growing family clients. He included copies of Calgary Assessment Review Board Decision ARB 1269/2010-P and Municipal Government Board Decision DL 047/10 which he considered supported his position regarding this point.

The Complainant also noted that in its application of the Cost Approach to Value, the City had misinterpreted the status of one of the four structures onsite, noting that under the Marshall and Swift classification system, it should have been assessed as a two-storey building and not a one-storey building. This correction alone he argued would have reduced the assessment to \$4,240,000 as he demonstrated via a re-calculation using Marshall and Swift "SwiftEstimator" on page 80 of his Brief C-1.

The Complainant argued that the subject has over 200 month-to-month tenancies – all able to terminate on 15 days notice so that "tenancy and revenue are variable", with turnover occasionally exceeding 120% annually. Hence, "long term revenue stability is not possible" he noted. On page 19 of his Brief C-1 he suggested that the subject's unit revenues were declining at four times the market rate, likely due to competition and location.

On pages 17 to 22 of his Brief C-1 the Complainant provided five graphs and charts intended to demonstrate the actual revenue, expense, and occupancy performance of the subject in particular, versus other unidentified Calgary self-storage locations in general. On pages 21 and 22 in particular the Complainant provided a generalized description of "Other Income and Expenses" for the subject as compared to seven other unidentified "Alberta Properties". However, the Complainant provided no documentary financial statements or similar material from the subject with which to compare either the data and graphs, or the arguments being presented on this point.

The Complainant also argued that in an industry where location is extremely important to success, the subject is in a poor location because there were few residential properties nearby, and, competition from other and newer self-storage properties was now intense. He argued that prospective clients are closer to, and tend to utilize the subject's competition, rather than the subject, and this has a negative affect on business and hence the market value of the subject.

Nevertheless the Complainant proceeded on the basis of the information available to him as inputs, to produce an estimate of value using the Income Approach to Value methodology. The Complainant therefore argued the need to use as inputs (among others) estimates of “other revenues” of 6% of total actual income; estimates of expenses of 50% (based on lower occupancy); and the actual average rent of \$1.20 per SF from the subject. (It was noted that in his rebuttal document C-2, the Complainant provided a rent roll from the subject to confirm the actual average rent value of \$1.20 per SF). He also utilized a “typical” Capitalization Rate of 10% which was obtained for use as outlined below.

The Complainant clarified that because there had been no sales of self-storage units in Calgary since 2007 he therefore needed to examine the broader Canadian market to identify an appropriate Cap Rate which he considered might be typical of the broader market, but adaptable to the Calgary market situation.

Therefore the Complainant listed on pages 83 to 85 of his Brief C-1, twenty-eight self-storage market sales and reported Capitalization Rates (as of September 2006) from all across the country from Quebec to British Columbia. It was suggested that this information came from reliable but un-named self-storage industry publications and sources. It was noted that of the 28 sales in 2006, 4 were from Alberta and one undated sale was from Calgary. Their Cap Rates as of 2006 were reported to range from 7.50% to 10.90%. However, it was noted that the Complainant provided no RealNet or Alberta DataSearch or similar third-party sheets to support this information.

In addition, the Complainant noted that self-storage properties frequently sell in “portfolios” and it was noted that at least 5 of the 28 sales were identified as portfolio sales. While the Respondent questioned the validity of using portfolio sales to determine a “typical” Cap Rate, the Complainant generally argued that it was appropriate where there was a paucity of current sales. He concluded that:

“As the majority of recent sales have been portfolio sales, the market is telling us that self-storage properties attract the highest price when grouped – as opposed to being sold individually. For assessment purposes there are two implications:

- Portfolio sales and Ros indicate the highest likely market value, and,
- As the majority of present sales are portfolio sales, that is the state of the marketplace as at the reference date”

On page 86 of his Brief C-1, the Complainant listed 61 cross-Canada portfolio sales as “Recent Sales Activity” of which 9 were Alberta sales and 5 of the 9 were from Calgary. Of the 9 Alberta sales, five were said to be 2006 and 2007 sales. All sales in the list of 61 were 2006 and 2007 sales except for one 2008 sale. This information was also said to have come from unidentified but deemed reliable, self-storage industry publications and sources.

On pages 59 and 60 of the Complainant’s Brief C-1 he provided the RealNet sheets documenting the April 4 2007 sale of one Calgary portfolio sale at 4687 Barlow Trail SE. This sale had been included in the above-noted list of sixty-one.

On page 84 of his Brief C-1 the Complainant inserted a small matrix of 6 Alberta self-storage properties that had either been listed for sale or sold between 2007 and 2010. He indicated that data regarding this list of 6 properties had come from a different source than the data regarding

the nation-wide sales on pages 83 to 86. He confirmed that the data was sourced from un-named private individuals and an un-named Appraiser.

He noted that the transactions occurred in Innisfail, Blackfalds, Lacombe, Sylvan Lake, Morinville, and Red Deer. The latter two occurred in 2007; two occurred in 2008; the second, the Blackfalds site – a failed sale, occurred in 2009; and the Innisfail site was only a current 2010 Listing. The Complainant noted in his 6-property matrix that the Capitalization rates for all 6 properties – including the Innisfail Listing at 10.50% - ranged from 7.5% to 10.90%.

Moreover, on page 24 of C-1, the Complainant provided a multiple-line graph entitled “Self Storage Actual Sales Reported Cap Rates with Colliers Reported Industrial Cap Rates”. It purported to illustrate a variety of Canada-wide Cap Rate values from 2002 to 2010 from a range of sources. In response to questions, the sources were said by the Complainant to range from unidentified clients; unidentified Appraisers in a Canadian Self –Storage Valuation group; to Altus; and to an unidentified independent Appraiser.

The Complainant concluded at the bottom of page 24 of his document that from his analysis of all of the foregoing Canada-wide 2006 and 2007 sales, listings, and market data, that “the appropriate capitalization rate as at July, 2010 is in the range of 9% to 11%.” Therefore, he concluded, given the risk associated with the subject, its poor location, and it’s declining but apparently now stabilized revenue history, he considered that a 10% Cap Rate was appropriate for the subject.

On page 25 of his Brief C-1, and using his actual and typical valuation data, the Complainant produced what he referred to as a “high quality estimate” of value using his Income Approach to Value methodology. It appeared as follows:

**“1111 – 42 Ave SE
Value as at July 1, 2010**

Total rentable area	83,252	
Potential Revenue	\$1,198,829	(\$1.20 psf)
Plus other Revenue	\$71,930	(6%)
Gross Potential Income	\$1,270,759	
Stabilized occupancy	-50%	50%
Total Potential Revenue	\$635,379	
Less Operating Expenses	- \$317,690	50%
Net Operating Income	317,690	
Cap Rate (Industry Ro)	10.0%	
FMV (stabilized)	\$3,176,896	
Fair Market Value (rounded)	\$3,180,000”	

The Complainant produced two other similar Income Approach to Value calculation scenarios on pages 26 and 27 of his Brief C-1 in which he adjusted either the typical Capitalization rate (to 9% from 10%) or the actual average rent rate (\$1.20 to \$1.30 per SF) to identify two other potential (i.e. “what if ?”) valuations for the subject – one at \$3.1 million and the other at \$3.53 million.

The Complainant summarized by suggesting that the subject's indicated values according to his several calculations are :

1. The best estimate of market value is by Direct Capitalization - \$3,180,000 but not more than \$3,530,000
2. Cost approach (as corrected) - \$4,244,000
3. Equity (compared to Maple Leaf South) - \$3,146,000
4. Comparison to Maple Leaf South's AVR - \$1,765,000

The Complainant ultimately requested that the assessment be reduced to \$3,180,000.

Valuation Considerations - Respondent

The Respondent provided his Brief R-1 and clarified the City's approach to valuation for self-storage properties. He indicated that the City classifies self-storage sites as industrial warehouses which are assessed using the "Direct Sales" (Market) approach. However, since there have been no Calgary sales of self-storage sites since 2007 he indicated that the City's Policy is to assess all such facilities in Calgary using the Cost Approach to Value methodology. This is how the subject was assessed pursuant to the Marshall and Swift manual he noted.

However, the Assessor clarified and confirmed that in assessing the subject using Marshall and Swift, the City had made an error. He noted that as the Complainant has alleged, one of the buildings in the subject 4-building complex was erroneously classified under the Marshall and Swift process as a one-storey building instead of a two-storey building, and improperly assessed. Therefore the Complainant's corrected calculations of value using Marshall and Swift, which illustrate an indicated assessment of \$4,240,000, are valid and correct.

However, in response to the Complainant's primary position, the Respondent Assessor questioned how the Complainant could purport to do an Income Approach to Value calculation for the subject, or indeed any property, if there are no current sales to be used to arrive at a reliable Capitalization Rate – particularly for the Calgary, or indeed any market. He noted that the Complainant's sales were all very dated (i.e. 2006 and 2007) unadjusted sales from across Canada with little or no relevance to a Calgary market. Indeed, one of his "sales" is not a sale at all, but merely a "Listing" which is of little value.

The Respondent argued that under provincial Legislation, City Assessors are charged with valuing the Calgary market and not Toronto or Quebec, or British Columbia markets. Therefore it is incumbent on the City to only use current Calgary Capitalization Rates based on Calgary sales when they are available. He further argued that the Complainant's sales from other Alberta communities are also not relevant to a Calgary market, since the City is not aware of nor does it analyze the Lacombe or Blackfalds markets for example. Neither would the City be aware of the physical or legal context of any of those facilities in any of those communities as compared to Calgary.

Moreover, he noted, portfolio sales are typically disregarded by the City as reliable indicators of value because their individual values in the portfolio "grouping" are frequently undefined and speculative. Therefore, since the Complainant has offered that many of his "sales" upon which he based his Capitalization Rate are portfolio sales from across Canada, this further supports the Respondent's contention that the Complainant's "Income Approach" Cap Rate is unreliable

and hence, so too are the values it generates.

In addition, the Respondent argued that the Complainant himself has argued firmly that self-storage facilities are highly sensitive to location. Therefore, he argued, the Complainant argues against himself when he seeks to use Toronto or Vancouver or other non-Calgary sales to calculate a Cap rate.

Therefore, he argued, since there have been no Calgary sales of self-storage sites in 39 months, the Complainant's Income Approach to Value calculations are purely hypothetical, fundamentally flawed, and hence unreliable. Moreover, it was noted that notwithstanding that many of the Complainant's inputs to his Income Approach calculations appear to be speculative and unsupported, mixing actual with typical values, it is nevertheless fundamental to the Income Approach calculations that the Cap Rate be properly "grounded" in valid market sales – in this case from Calgary.

In further support of his position the Assessor provided several calculation sheets from the Cost Approach assessments conducted on other Calgary self-storage facilities, including the Maple Leaf North and South locations.

Board's Conclusions With Reasons

In its review of the positions of the Parties in this Hearing, the Board tends to be somewhat sympathetic to the position taken by other Assessment Review and Municipal Government Boards, and the Complainant, in their conclusions that ideally, self-storage sites should be assessed using the Income Approach to Value methodology. Given their manner of operation and their varied manner of selling in the marketplace, it would appear that an Income Approach valuation for them is not inappropriate.

However, that premise notwithstanding, it would also seem reasonable to assume that there is a binding obligation on the valuating "Party" to apply valid and documentary-supported data inputs to any Income Approach calculations. This would include valid and "host-market based" capitalization rates calculated from current, valid, and industry-documented non-portfolio market sales of self-storage facilities in the host community. It would also include well-documented market-based income, expense, and vacancy data for example from the host facility for a site-specific value, or from a group of same-market facilities to identify "typical" values. On these points, the Board agrees with the Respondent.

Moreover, it would appear to be incumbent on the valuating Party to ensure that in calculating an Income Approach to Value valuation for properties, that a mixing of "actual" and "typical" inputs not occur. In the Board's view an "Income Approach" calculation should consist entirely of "typical" market indicators, or entirely of "actual" property indicators to suit the intended purpose. In the Board's view, it concurs with the Respondent that there should not be a mixing of the two methodologies.

In the current appeal, the Board notes that the Complainant's Income approach to Value calculations, and hence the indicated market value he requests for the subject, appear to fail for the following reasons;

1. The Complainant has used nation-wide market sales – including portfolio sales of self-

storage facilities to calculate a Capitalization Rate which he has applied without reservation to the subject. However, the subject is in the Calgary market, not the Vancouver or Toronto or Saskatoon markets from where the Cap Rates are taken. While they may reflect those markets, the Board is satisfied that they do not reflect the Calgary market.

As a corollary, it is clear that the City does not use Vancouver or Toronto market data to calculate a Calgary assessment. In the Board's view therefore it is likewise not reasonable for the Complainant to utilize Canada-wide or Alberta-wide data to firstly, suggest that a Calgary assessment is incorrect, and secondly to use it to calculate a Calgary Cap Rate.

2. It appears incongruent to the Board, for the Complainant to argue that self-storage facilities are "location-sensitive" on the one hand, but then utilize Canada-wide data to value it on the other. In the Board's view, this appears to be an inconsistent, self-defeating, and unreliable position.
3. The Complainant provided evidence of six non-Calgary Alberta market sales – one of which was not a sale, but a "Listing", and another a "failed sale". Using those same six properties, the Complainant calculated a Cap Rate which he proceeded to arbitrarily increase from 9% to 10% and use in his analysis of the subject. However, he failed to provide any Alberta DataSearch or RealNet sheets to support the Cap Rates he attributed to each of them. While those six marketed properties clearly do not represent the Calgary market, the Board nevertheless places little reliance or weight on hypothetical Cap Rates evidently calculated in part on the basis of a "Listing" or "failed sale". Moreover, the Complainant failed to identify any specific source for this data, other than to generally reference unidentified individuals. Therefore, taken as a whole, the Board found this information to be highly suspect and considerably unreliable.
4. The Board agrees somewhat with the Complainant that in certain instances there is a tendency for self-storage facilities to sell "grouped" in a portfolio. However, the Board disagrees with his argument that this justifies the inclusion of portfolio sales in calculations to determine Cap Rates. Self-storage sites are not assessed as a "portfolio" nor a "group", but rather as individual properties in Calgary. It also appears from the evidence that many such sites sell individually, and the fact that they are assessed that way appears to the Board to be reasonable and appropriate, contrary to the assertions of the Complainant.
5. While the Board generally accepts that the Cost Approach to Value may be a lesser means of valuing self-storage units than the Income Approach to Value methodology, nevertheless, where there is a paucity of valid, current, market sales such as has occurred in Calgary since 2007, the City's Policy of valuing these sites using the Cost Approach appears to the Board to be reasonable. It would represent a consistent approach to valuation.
6. The Board noted that in calculating a suggested value for the subject using the Income Approach, the Complainant provided several inputs. However, it noted that there were no financial statements or related documents to verify key inputs for many line items captioned as revenues and expenses. These were primarily referred to in lengthy descriptive prose, but were either unidentified or unsupported. While the Complainant referenced an average rental value for units at \$1.20 per SF for example, this value was

only finally shared with the Board and Respondent as a form of rent roll in the Complainant's rebuttal document.

In addition, through his analysis of country-wide sales, the Complainant concluded that an indicated Cap Rate of between 9% and 11% emerged. Thereupon he considered that a 9% Cap Rate was valid for the subject. However, he argued – without specific documentary support, that because the subject suffered from locational and revenue difficulties, it should receive a 10% Cap rate. In the Board's view, there appeared to be little market or other evidence presented that would allow for the Complainant to arrive at this speculative conclusion.

Therefore, taken as a whole, the Board found that it could place little confidence in the Income Approach calculations developed by the Complainant, since the input variables were considered to either be unsupported and speculative, but also gleaned from inappropriate and unreliable or unknown/undisclosed sources.

- 7 Ultimately the Board noted that the Complainant had calculated a "corrected" Cost Approach to Value of \$4,240,000 for the subject that the Respondent agreed was a correct value using that valuation approach. Both Parties concur that in the absence of a reliable Income Approach to Value valuation, this assessed value would be correct.

Equity Considerations

The Complainant argued that the assessment of the subject is inequitable when compared to the assessment of the nearby Maple Leaf South self-storage facility at 803 – 64 AV SE. He noted the location of the Maple Leaf site relative to the subject and generally described the similarities and differences of the two properties. He also proceeded to compare the assessment of the Maple Leaf site with the assessment of another similar-sized industrial warehouse building, just two buildings removed from it. He concluded that when compared to these two properties, the subject is over-assessed.

However, the Respondent clarified that the Maple Leaf South property had been incorrectly assessed for 2011 because a large second building on the site had somehow been overlooked and not valued or added into the assessment. Therefore, he considered that any comparison of the subject to the Maple Leaf South facility, or indeed, the Maple Leaf site to any other site, based on their respective 2011 assessed values, is flawed and invalid.

Board's Conclusions With Reasons

The Board concurs with the Respondent that the Complainant's equity arguments with respect to the Maple Leaf South self-storage facility appear to be largely invalid because of its erroneous assessment. Therefore, the Board places little weight on the Complainant's position with respect to this point.

Board's Overall Decision With Reasons

The Board has noted that while an Income Approach to Value calculation ideally may be the appropriate method of valuing self-storage properties such as the subject, nevertheless there is a duty to prepare a proper "Income" calculation using transparent and market-oriented inputs. As noted above, for the many reasons cited herein, the Board considers that the Complainant has failed to prepare an alternate and reliable calculation of market value via the "Income" approach because he has used the several questionable, speculative, and unsubstantiated inputs that he identified and described.

Indeed, at times the Complainant's arguments, particularly those related to the importance of location to self-storage sites, and the use of country-wide data to value the subject, appeared to work at cross-purposes.

Moreover, the Complainant relied on one key equity comparable property, the Maple leaf south self-storage site, which had been incorrectly assessed thereby invalidating much of the Complainant's conclusions regarding its comparability to the subject.

However, the Complainant did correctly calculate an alternate assessment of \$4,240,000 for the subject using the Cost Approach to Value and Marshall and Swift. This calculation and the resulting value were accepted by the City as being fundamentally correct. Therefore the Board opts to correct the assessment by reducing it to \$4,240,000.

Board's Decision:

The Board **corrects** and reduces the assessment to \$4,240,000

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF August 2011.



K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure Brief
2. C-2	Complainant Rebuttal Document
3. R-1	Respondent Disclosure Document

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.*