

**CALGARY
COMPOSITE 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:

***Cross-Roads Oils Canada Ltd.*
(as represented by *Colliers International Realty Advisors Inc.*), **COMPLAINANT****

and

The City Of Calgary*, **RESPONDENT*

before:

***J. Fleming, PRESIDING OFFICER*
B. Jerchel, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 137038808

LOCATION ADDRESS: 11550 44 St. SE

HEARING NUMBER: 62872

ASSESSMENT: \$5,760,000

This complaint was heard on 26th 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.

Appeared on behalf of the Complainant:

- *D. Porteous, M. Uhryn*

Appeared on behalf of the Respondent:

- *K. Gardiner*

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

There were no procedural or administrative matters raised at the hearing.

Property Description:

The property is a "B" quality 50,447 square foot (sq. ft.) building built in 2001 and occupying 6.72 acres of land in south east Calgary. The occupant is the Peterbilt Truck Dealer and Shop. The land use designation is Industrial – General. The property has Corner Lot and Traffic Collector influences of which the Corner Lot has a +5% on land value. The property was valued using the cost approach, and it is only the land value which is contested in this complaint.

Issues:

There were a number of issues listed on the complaint form, but at the hearing the Complainant indicated there was one issue in dispute.

What is the best evidence of land value for the subject?

Complainant's Requested Value:

\$3,830,000

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

The City's 2011 sales evidence is the best evidence of land value.

Board's Decision and Reasons:

The Complainant argued that both in theory and historically in Calgary, land values are subject to the "law of diminishing returns" which, as stated by the Complainant, suggests that the larger the parcel size the lower the price per acre (Ex. C1, pg 3). The Complainant argued that this should be the case in the current complaint.

The Complainant provided a list of 7 sales in the area which sold from Dec. 2009 to Aug. 2010 (in fact 3 of the sales were post-facto). The size of the lands that sold varied from 1.08 to 2.095 acres, and the median and average prices were \$530,000 per acre (Ex. C1, pg 11).

In the absence of current information, the Complainant explained they had used the valuation parameters from the City's 2010 industrial land rates in the south east (Ex. C1, pg 51) as the basis for their adaptation to the current year. Their sales data noted above, had demonstrated that land up to 2 acres sold for \$530,000 per acre. They also noted that from the City's study for 2010, the land value dropped by 71% for the second acre and any additional acres (the first acre in the City's 2010 study was valued at \$1,050,000).

The Complainant argued that this 71% drop should be applied to the third and subsequent acres in the current year, which would produce a value of \$1,774,894.29 for the land and a total value for land and building (truncated) of \$3,830,000 (the full calculation is shown in Ex. C1, pg

3).

The Respondent agreed that theoretically the law of diminishing returns would apply, however the City this year had completed an analysis of 18 sales in the southeast, with sizes from .86 to 9.05 acres that demonstrated that the law of diminishing returns did not apply for industrial sales in the southeast this year (Ex. R1 pg. 22). The average sale price for land under two acres was \$528,000 per acre, and \$522,000 for properties over two acres. They noted that three of the sales were across the street from the subject although they also noted that the "best" comparable was sale #17 which was closest in size, at almost 6 acres, and sold for a time adjusted sales price of \$646,462.

They concluded by reminding the CARB that the Complainant had used "part" of the previous year's analysis to calculate the suggested value, and that this type of calculation had no validity in establishing the 2011 value, and they asked that the assessment be confirmed.

The CARB considered all the evidence and argument. The CARB agreed with the Respondent that use of the previous year's data was inappropriate when the City had "current" data that would have been available to the Complainant when preparing their complaint. Further, the Complainant used only part of the previous year's calculation, with no support or explanation as to its current validity. The CARB notes that the establishment of the calculations is normally a sophisticated mathematical exercise, and one cannot usually appropriate parts of the calculation, apply them to a new calculation and expect to obtain a valid result. Further, the CARB concludes that it is counterintuitive to use the City's old data and then argue that new data (produced using the same process) is not valid. Accordingly, the CARB accepts the City's approach to the land valuation.

Finally, the CARB accepts the arguments of the Respondent that based on the City's sales evidence; the law of diminishing returns did not manifest itself for sales of industrial land in the southeast in the current year.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$5,760,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF August 2011.


James Fleming
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*