

**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:**

***KIRKELL HOLDINGS LTD, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair PHILIP COLGATE  
Board Member R. DESCHAINED  
Board Member S. ROURKE***

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: 200772309**

**LOCATION ADDRESS: 22000R SHERIFF KING STREET SE**

**HEARING NUMBER: 62197**

**ASSESSMENT: \$537,500**

This complaint was heard on 25 day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *John Kirkland – Representing Kirkell Holdings Ltd.*
- *Carl Hassell – Representing Kirkell Holdings Ltd*

Appeared on behalf of the Respondent:

- *Jason Lepine – Representing the City of Calgary*

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

The board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

**Property Description:**

The subject property is located at 2200R Sheriff King Street SE, Calgary, Alberta. The parcel is an unimproved parcel of 8.54 acres. The subject property is a rectangular shaped parcel which is split by the Canadian Pacific Railway resulting in two long linear parcels on each side of the railway right-of-way. The site is not currently serviced.

**Issue:** What is the correct market value for the subject property?

**Complainant's Requested Value:** \$470,000

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

Complainant's Evidence:

The complainant's position is the current assessment overvalues the subject property in relation to an appraisal report prepared for the owners. The appraisal report was prepared by Prabhdeep Singh, Appraiser for Elford Appraisal and Consulting Services Ltd. The subject property was inspected on March 2, 2010, with an effective appraisal date of March 2, 2010.

The appraisal report provided five property sales in its analysis of the direct sales approach to establish the market value.

Indicator #1 at 8487 32 Street NE, Calgary, a 13.84 acre parcel was a sale between the City of Calgary and the Calgary Airport Authority. The appraiser in the report discounted this sale as

not 'a standard arms length seller and buyer' and 'carries little weight', but the appraiser then continues to say 'the adjusted sale price is considered to provide a good overall indicator of value in total for the subject'. The use of this sale was not challenged by the Respondent and was in fact used in their analysis of sales to establish the market value.

Additionally, the appraisal provided Indicator #2 at 1100 226 Avenue SE, Calgary, Indicator #3 at 16555 104<sup>th</sup> Street SE, Calgary and Indicator #4 at 16625 104 Street SE as sales to establish the market value of the subject property. All three appeared to be acceptable as indicators to establish the market value for the subject, and were also part of the Respondents submission to support the current assessment.

Indicator #5 at 403A 84 Street NE, Calgary submitted as part of the appraisal report is according to the complainant's submission a Court Ordered Sale for a significantly larger parcel. The Respondent raised issue with indicator #5 due to the size of the parcel at nearly 8 times the size of the subject 'with no adjustment for size. Economies of scale and diminishing returns are common appraisal theory, and they should be taken into consideration'.

The appraiser made note of the effect of the CP Railway Track which divides the subject property and has applied a 25% reduction each for location and utility, equalling a 50% reduction. The 50% reduction had been applied to each of the indicators provided.

In the analysis of the Indicators, the appraiser has placed greatest weight on Indicator #2 to establish the market rate per acre to be applied to the subject.

The requested assessment is based upon \$55,000 /acre for 8.54 acres for a value of \$469,700, rounded to \$470,000.

#### **Respondent's Evidence:**

The Respondent has also applied a 50% adjustment to the sale prices in recognition of the adverse effects on the parcel. The City of Calgary has recognized a 25% adjustment for limited access and 25% for shape factor-reduced functionality.

The Respondent has in this case not provided any additional sales but presents the same sales as provided by the Complainant in the appraisal report, with the exception of the property at 403A 84 Street SE (Indicator #5).

The Respondent, by eliminating Indicator #5, has provided a revised table of the remaining 4 comparables which indicates a median value for the sale price of \$133,350 or an adjusted sale price (50% for location and access problems) of \$66,675 per acre. (Table on Page 14 of Respondent submission C1)

#### **Findings of the Board**

##### **Complainant's Submission:**

Indicator #1 - the Board finds the appraiser has presented what would appear to be conflicting analysis on the use of this indicator - giving it little weight due to the parties involved, but including the adjusted sale price as an indicator of value. As both the Complainant and the

Respondent have included this sale in their analysis the Board will accept this sale as evidence but will place less weight on the value derived in its review of the submissions.

Indicator #5 – this indicator raised difficulty for the Board for two specific reasons – firstly, as noted in the Complainant's appraisal report, this was a court ordered sale so does not fall within the definition for market value

*Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26*

*1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;*

Secondly, the Board is concerned with respect to the size of the comparable at 64.0 acres versus the subject at 8.6 acres. Although the appraiser has applied the same analytical techniques to all the comparables, the Board is reluctant to use this sale as there is no adjustment made for the significant difference in size between the subject and the comparable.

For these reasons the Board is not prepared to place weight on the sale at 403A 84 Street NE in the determination of the market value of the subject property.

The adjustment applied by the Complainant of 50% is supported by the submission of the Respondent so is accepted by the Board in the determination of the market value for the subject property.

**Respondent's Submission:**

The Respondent has provided no additional sales for the Board to review in support of the rate of \$62,500 per acre applied to the subject. The Respondent has accepted 4 of the 5 sales used by the Complainant to support the rate assigned to the subject in the determination of the market value which gives the median value for the adjusted sale price of \$66,675 per acre, which exceeds the current rate assigned of \$62,500 per acre.

The adjustment applied by the Respondent of 50% is supported by the submission of the Complainant so is accepted by the Board in the determination of the market value for the subject property.

**Board's Decision:**

It is the opinion of the Board the Complainant has provided some good sales for the establishment of the market value but, has also included sales which the Board has difficulty in accepting as representative of the market for the subject. The exclusion of Indicator #5 results in a revised median value which supports the value assigned by the City of Calgary in its determination of the market value. Further, the Board is hesitant in accepting an appraisal which bases the market value determination on only the one indicator, Indicator #2, of the submitted comparables rather than the use of several sales to establish value.

If we analyze the three remaining sales (Indicators #2, #3 and #4), which occurred in the same

quadrant as the subject, the median value is calculated at \$70,820 per acre. This value exceeds the current rate per acre applied by the City of Calgary

On the basis of the evidence submitted, the assessment is confirmed at \$537,500.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF July 2011.

  
Philip Colgate  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Appraisal Report/ Valuation of Land
3. 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.*