

**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:

1456206 ALBERTA LTD, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. 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: 201485687

LOCATION ADDRESS: 2168 8800 VENTURE AVENUE SE

HEARING NUMBER: 62597

ASSESSMENT: \$555,500

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:

- *Jasvinder Babra, representing 1456206 Alberta 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.

The preliminary matter of failure by the Complainant to submit a disclosure for the complaint was dealt with by the Board. The Complainant testified he was unfamiliar with the complaint process and was not aware of the requirement to file the disclosure documents until it was past the filing date.

Following discussions with the Respondent, it was the decision of the Board to allow the hearing to proceed with a verbal presentation from the Complainant restricted to only the issues raised on the complaint form and the evidence submitted.

The complaint form was also lacking a requested assessed value.

Property Description:

The subject property is a condominium warehouse unit of 2,601 square feet, with office mezzanine area of 900 square feet located in the southeast quadrant of the City of Calgary.

Issues:

The complaint was identified on the complaint form as against the assessment amount. The Complainant believes assessment is too high in comparison to a similar unit in building #2192.

Complainant's Requested Value: \$400,000. This request did not appear on the complaint form but a result of a question from the Board.

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

Complainant's Evidence

Due to the failure to file the required disclosure the evidence submitted was by verbal

presentation.

The Complainant based his filing on a number of concerns with respect to the subject –

1. The lack of bus service
2. The lack of services
3. Equity with a similar unit in the complex, specifically the difference in square footage between the subject and the unit at 2192 8800 Venture Avenue SE

Respondent's Evidence

Due to the lack of a disclosure document the Respondent only addressed the question of the comparable at 2192 8800 Venture Avenue SE provided on the complaint form. The subject property was assigned an area of 2601 square feet of warehouse and 900 square feet of mezzanine office whereas the comparable, assessed at \$492,500, was assigned 2749 square feet of warehouse and no mezzanine office area.

Evidence was also presented as to the purchase price of the subject for \$510,300 in October of 2009.

Findings of the Board

Complainant's Submission:

Due to a failure to file a disclosure in compliance with the Matters Relating to Assessment Complaint Regulation 8(1) and (2)(a)(i)&(ii) the Board has no evidence on which to base an adjustment.

Disclosure of evidence

8(1) *In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.*

(2) *If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:*

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence,

a summary of the testimonial evidence, including a signed witness report for each witness, and any

written argument that the complainant intends to present at the hearing in sufficient detail to allow the

respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount

of time necessary to present the complainant's evidence;

The verbal testimony, while raising questions did not provided any factual or market evidence for the Board to use.

The question of equity was addressed by the Respondent in their submission, as noted above.

There is a difference between the subject and the comparable in that the subject unit has additional area in the form of mezzanine office area. The subject unit has more square footage of assessable area compared to the comparable and has been assessed accordingly.

Respondent's Submission:

The Respondent's submission, while addressing the questions raised regarding the comparable, was unable to answer the questions raised by the Complainant at the hearing with respect to the services or transit service as these were new questions to the Respondent.

Board's Decision:

Due to the lack of Complainant's evidence, in market value analysis or comparable properties, which would be necessary to make any possible adjustments to the assessment, the Board has insufficient evidence to change the assessment.

The assessment is confirmed at \$555,500.

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:**

| NO. | ITEM |
|------------|-----------------------|
| 1. 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.*