

**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:

CENTRAL CUSTOM DESIGN (CALGARY) LTD., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

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

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: 092023803

LOCATION ADDRESS: 3820 16 STREET SE

HEARING NUMBER: 62408

ASSESSMENT: \$317,500

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 2.

Appeared on behalf of the Complainant:

- *Steve Hajnoczkyi – Representing Central Custom Design (Calgary) Ltd.*

Appeared on behalf of the Respondent:

- *R. Todd Luchak – 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 had no 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.

A preliminary issue was raised by the Respondent in that the Complainant introduced new evidence in the rebuttal document submitted to the City of Calgary and the Composite Review Board. Specifically, the Complainant had submitted comparables used in Assessment Review Board hearings in 2008, 2009 and 2010. The Respondent's held the position these comparables should correctly have been disclosed in the disclosure document. The Complainant believed that in as much they had been submitted for prior hearings they would be available for the 2011 hearing.

Following an adjournment so the Board could review the content of the rebuttal document, it was the decision of the Board to allow a portion of the document to be entered as evidence for the hearing. The comparables from 2008, 2009 and 2010 were excluded as they were deemed to be new evidence. The Board in its decision takes guidance from the Matters Relating to Assessment Complaint Regulation, Alberta Regulation 310/2099 -

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

Failure to disclose

9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

Property Description:

The subject property is a 1475 square foot industrial building constructed in 1940, situated on a 0.15 acre parcel of land. The property is located in the area of Calgary identified as Bonnybrook. Current zoning on the parcel is I-R (Industrial – Redevelopment)

Issue: The assessment is inequitable in comparison to comparable properties.

Complainant's Requested Value: \$58500.

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

The Complainant provided three comparables, including copies of the Assessment Summary Reports, as the basis of His evidence –

3818 15 Street SE assessed at \$58,500

4129 16 Street SE assessed at \$58,500

4015 16 Street SE assessed at \$58,500

The Assessment Summary Reports indicated all three properties were assessed as 'Land Only' parcels.

Also provided was photographic evidence as to the condition of the subject improvement to the parcel.

It was the Complainant's contention the value of his improvement was over assessed when the value of the land was removed. The building is an older warehouse structure built in 1940.

The subject parcel is the same size as the three comparables provided at 0.15 acres. By removing the value of the land he calculates the building is being assessed at \$259,500 (\$317,500 - \$58,000 = \$259,500).

The Complainant did not believe the improvement, in its current condition, was worth the value set by the City of Calgary.

Respondent's Evidence:

The Respondent pointed out to the Board the three comparables provided by the Complainant were not improved parcels similar to the subject but rather vacant land parcels. Vacant land and improved properties are analyzed in different models for assessment purposes.

The Respondent provided a map to the location of the subject property and photographic evidence as to the presence of an improvement on the site.

A copy of the 2011 Assessment Explanation Supplement on the subject property was submitted, which indicated the assessment of the subject, a single tenant industrial warehouse, was based upon a rate of \$215.57 per square foot.

Findings of the Board**Complainant's Submission:**

The Complainant has provided evidence as to the assessment of vacant parcels in his area, which indicated land value.

However, he has not provided any direct evidence as to the market value of improved properties in the market place, which would support his claim to lower value.

Respondent's Submission:

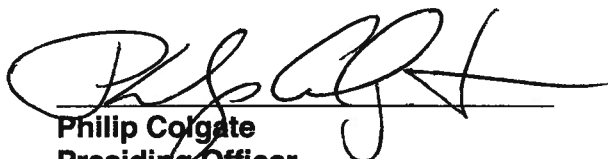
The Respondent provided, in evidence, the subject is an improved parcel which has been assessed in a same manner as similar properties in the area.

Board's Decision:

Due to lack of compelling evidence by the Complainant, the Board cannot adjust the assessment.

The assessment is confirmed at \$317,500.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF August 2011.


Phillip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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.*