

**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:

***1088570 Alberta Ltd. (as represented by Assessment Advisory Group Inc.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. McEwen, PRESIDING OFFICER
D. Morice, MEMBER
K. Coolidge, 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: 068208008

LOCATION ADDRESS: 403 RIVERFRONT AV SE

HEARING NUMBER: 63460

ASSESSMENT: \$1,080,000

This complaint was heard on the 4th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- S. Cobb

Appeared on behalf of the Respondent:

- D. Satoor

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

The Respondent objected to the Complainant's request to introduce Mr. Brian Tychonick, the owner of the subject property, as a primary witness. The grounds for the objection were that the Complainant had not complied with the requirements governing disclosure as laid out by the Matters Relating To Assessment Complaints Regulation (MRAC), section 8(2)(a)(i) and section 8(2)(c). The Respondent argued that the Complainant had not provided a signed witness statement for Mr. Tychonick, as required by MRAC and, therefore, the Respondent asked that the Complainant's request to introduce the witness be denied.

The Complainant agreed that a signed witness statement had not been filed.

The Respondent also objected to the Complainant's Summary of Testimonial Evidence (the summary), specifically, the absence of clarity regarding the issue under complaint. The Respondent, once again, referred to the requirement under MRAC section 8(2)(a)(i) that the Complainant provide a summary in sufficient detail to allow the Respondent to rebut the evidence at the hearing.

The Complainant stated that the issue could only be described as "challenges to the property" and that the evidence would speak to that.

The Board accepted the Respondent's first objection and denied the introduction of Mr. Tychonick as a primary witness based upon the MRAC requirement that disclosure *must* include a signed witness statement for each witness. The Board requested that Mr. Tychonick remain at the hearing in the event that clarification of any matter was required, however, he was not permitted to provide any direct evidence.

The Board did not accept the Respondent's second objection regarding the deficiencies of the Complainant's summary and allowed the merit hearing to proceed. The Board stated, however, that the summary was very weak and barely met either the intent of the legislation or the expectations of the Board. The Board reminded the Complainant that the evidence provided in support of the complaint would only be given weight relative to the specific issue at hand.

Property Description:

The subject property is an 8,289 square foot parcel located in Calgary's East Village district and improved with an 8,912 square foot, 2-storey building (Brown's Food Service) constructed in 1952. The subject building is adjacent to Bookers Crab Shack which is located directly across

4th AVENUE from the vacant Cecil Hotel.

Issues:

The subject property is assessed higher than market value and is, therefore, inequitable to comparable properties. Specifically, the subject assessment does not accurately reflect the challenges faced by the subject property during the valuation period.

Complainant's Requested Value:

\$907,800

Board's Findings and Reasons in Respect of Each Matter or Issue:

The Board finds that the Complainant has not met onus in this matter as the evidence is insufficient to support the market value issue raised by the Complainant. The Complainant's three sales comparables are not accepted by the Board as there is little evidence provided to demonstrate the similarity of the comparables to the subject property. In addition, the relationship of these sales comparables to the 11% decrease in the subject's 2011 Business Tax (upon which the requested assessment is based), is not coherent.

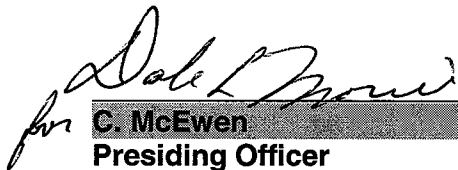
A matter which seems relevant to the correct assessment of the subject property is that major construction during the valuation period has altered the topography of the area thereby impacting reasonable access to the property. In addition, the roadways around the subject were altered in such a way that the corner lot influence applied to the subject for assessment purposes may no longer be warranted. As neither issue was properly disclosed, they cannot be part of the Board's decision. The Complainant and Respondent are encouraged to review these matters at their earliest convenience.

Without relevant comparables, the Complainant's market argument fails.

Board's Decision:

The assessment is confirmed at \$1,080,000.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF AUGUST 2011.


C. McEwen
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Disclosure (Enhancement)

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.*