

**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:**

***DENNIS R GORUK, COMPLAINANT***

**and**

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

**before:**

***Board Chair P. COLGATE  
Board Member R. DESCHAIINE  
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: 116504507**

**LOCATION ADDRESS: 9 4045 74 AVENUE SE**

**HEARING NUMBER: 62510**

**ASSESSMENT: \$512,000**

This complaint was heard on 28th 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:

- *Dennis Goruk - owner*

Appeared on behalf of the Respondent:

- *Ian Baigent – 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.

A preliminary matter with respect to disclosure was addressed by the Board. The Complainant had failed to file the required disclosure as outlined in the Regulation -

Matters Relating to Assessment Complaints Regulation - Alberta Regulation 310/2009 –

***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(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.***

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

The Board's decision was to proceed with the hearing based upon the information contained in the Complainant's Assessment Review Board Complaint form, with the conditions the Complainant could only speak to what was provided on the form and was not permitted to submit any new evidence. The Respondent was acceptable to this decision as the Respondent had prepared a submission based upon the evidence on the form.

**Property Description:**

The subject property is a 1980 condominium warehouse of 2800 square feet located in the Foothills Industrial Park.

**Issues:**

1. The assessment is inequitable in comparison to another warehouse complex.
2. The unit lacks office and washroom facilities as found in comparable units in the complex.

**Complainant's Requested Value:** \$336,000 (from Assessment Review Board Complaint form).

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

**Complainant's Evidence:**

The Complainant requested the assessment be reduced to \$336,000, or a requested rate of '\$100/sq.ft.'. The rate is derived from a comparison to the building at 4041 74 Avenue SE, which is assessed at the lower rate per square foot. The Complainant states 4041 74 Avenue SE has more land than the subject complex at 4045 74 Avenue SE.

The Respondent further testified the comparable structure is better as the mezzanine offices have their own access.

The Complainant states 'there is basically not a significant difference between the buildings yet 4041 is assessed 50/sq.ft. lower than 4045'.

The Complainant submitted the subject unit is unfinished, lacking in office space or washrooms as opposed to the other bays in the complex. Currently the unit is used by the owner for personal storage only.

**Respondent's Evidence:**

The Respondent provided a map of the subject location as well as the comparable property, photographs of the subject complex and a 2011 Industrial Condominium Assessment Explanation Supplement. The Supplement confirms the subject is currently assessed for 2800 square feet of warehouse space and no office area.

The Respondent provided a 2011 Industrial Condominium Assessment Equity Comparable chart with five units from the same complex as the subject condominium unit.

A 2011 Industrial Condominium Assessment Sales Comparable chart provided the Board with 5 sales in the same area in support of the value applied to the subject unit. The sales ranged from a low of \$504,000 for 2003 square feet of warehouse space to a high of \$684,130 for a larger warehouse/office unit.

**Findings of the Board**

**Complainant's Submission:**

This calculation for the requested assessment was based upon the inclusion of 560 square feet of mezzanine storage which is not currently assessed by the City of Calgary.

The Complainant in the information provided states the subject has multiple owners while the comparable has only one. The Board feels, based upon this testimony, the comparable provided is not representative of a condominium warehouse complex as the two properties trade in a different markets.

The subject is assessed as warehouse space so no adjustment needs to be made for lack of office space.

The Board finds the use an owner makes of a condominium space has no bearing on the assessment. An owner has many rights associated with ownership, including the use of the space for personal storage. This use has no effect on the market value of the condominium unit.

**Respondent's Submission:**

With respect to the equity comparables, the Board found that while no unit had the same configuration as the subject there was sufficient similarity and explanations for the differences to support the rate applied to the subject.

The board found the sales comparables provided, while for differing sizes and configurations of space use, supported the market value assessed to the subject condominium unit.

**Board's Decision:**

Due to lack of disclosure, the lack of market evidence or valid comparable properties by the Complainant, the Board find there are insufficient grounds to alter the assessment of the subject property.

The assessment is confirmed at \$512,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF August 2011.

  
Philip Colgate  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*