

**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:

NORDIC INVESTMENTS LTD., 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: 201582160

LOCATION ADDRESS: 7211 5 STREET SE

HEARING NUMBER: 60923

ASSESSMENT: \$2,510,000

This complaint was heard on 29th 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:

- *Kirby Soon – Representing Nordic Investments Ltd.*

Appeared on behalf of the Respondent:

- *George Bell – 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.

Property Description:

The subject property is an industrial warehouse constructed in 1971 with a footprint of 8,000 square feet and a leasable area of 10,650 square feet. The site covers an area of 1.90 acres. The property is located in the Fairview Industrial area.

Issue:

The assessment does not reflect market value as determined by the purchase price of the subject property.

Complainant's Requested Value: \$1,740,000.

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

Complainant's Evidence:

The Complainant's disclosure contained a copy of the Statement of Adjustments for the purchase of the subject property. From this document the Board learned –

- Date of Adjustment/Closing Date June 30, 2010
- Offer to Purchase and Interim Agreement July 6, 2009
- Sale Price \$1,740,00.00
- Note 2. -- 'The parties agree that nothing contained herein is intended to diminish or remove any obligations of the parties under the Offer to Purchase and Interim Agreement accepted July 6, 2009, as amended ("Purchase Agreement") or any of the other agreements or instruments and documents surrounding the closing of the transaction.'

Mr Soon provided a verbal history of the acquisition of the subject property –

July of 2009 – A sign listing the property for sale was observed, with Colliers acting as

agent for the owner, Enersul Inc. An Offer to Purchase was made for the property by Nordic Investments Ltd., with a number of conditions –

- An environmental review of the site was completed
- Purchase would not be completed until a plan of subdivision was completed
- The property would be leased to Nordic Investments Ltd. until such time as conditions had been completed.
- Sale completed June 30, 2010.

The subject property, until the time of transfer of the property to Nordic Investments Ltd., was leased to Brasso Nissan Ltd which used the site as an automotive service facility. Upon purchase a new lease between Nordic Investments Ltd and Brasso Nissan Ltd was put into place. Brasso Nissan is the sole tenant for the site.

The Complainant held the position the sale was an arm's length purchase and was an indicator of the market value for the property.

Respondent's Evidence:

The Respondent testified no evidence was found to show the property was exposed to the open market, as no Multiple Listing Service (MLS) listing was found.

The Respondent provided a 2011 Assessment Explanation Supplement which provided details of the subject property – the structure covers 8,000 square foot, with an assessable area of 10,650 square feet. The finished area of the structure comprised 41% of the total area. Site coverage of 9.67% results in an extra land area adjustment for 1.29 acres.

The Respondent provided two comparable charts as evidence – a 2011 Industrial Equity Comparables chart and an Industrial Sales Comparables chart. The sales chart indicated the median time adjusted sale price for the 9 sales provided was \$245 per square foot, whereas the subject is assessed at \$236 per square foot.

The Respondent holds the position the sale is not an arm's length due to the lease agreement in place and part of the agreement to purchase.

Findings of the Board

Complainant's Submission:

The Board has reviewed the purchase history of the property in question. Ideally, when looking at a purchase to determine the market value of a property the Board would like to see a transfer which did not raise more questions. With the transfer in question, the Board finds the sale to be questionable with the introduction of the lease agreement between the parties. Did this have an influence on the vendor's acceptance of the offer by the purchaser?

Accordingly, the Board places less weight on the Statement of Adjustments.

Respondent's Submission:

The lack of an MLS listing does not confirm the property was not exposed to the market place.

With respect to the Sales Comparable chart, the Board takes notice of 3 sales – 4207 80 Avenue NE is located some distance from the subject property and the two sales for the property at 11565 44 Street SE which indicate a sale price increase of \$1,035,785 in only a two

month period. The sale in the northeast the Board will place less weight on due to its distance from the subject location.

The sales chart provided provides the Board with evidence the assessment value for the subject is supported by industrial sales in the market place.

Board's Decision:

Following a review of the evidence provided by the Complainant and the Respondent, the Board is of the opinion there is insufficient evidence to alter the assessment.

The Complainant's purchase evidence is not sufficient when questions are raised regarding the Offer to Purchase when a lease is also negotiated in the interim and its possible influence on the negotiated purchase price.

The Respondent's evidence provides sales of several sites in the area which would support a higher value for the property than the purchase price paid for the subject site.

The assessment is confirmed at \$2,510,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF August 2011.


Philip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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.*