

**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:**

**Indgion Holdings Ltd.  
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**J. Krysa, PRESIDING OFFICER  
D. Cochrane, MEMBER  
K. Farn, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the annual property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>072023005</b>
<b>LOCATION ADDRESS:</b>	<b>3820 17 Ave SE</b>
<b>HEARING NUMBER:</b>	<b>66134</b>
<b>ASSESSMENT:</b>	<b>\$929,500</b>

The complaint was heard on September 5, 2012, in Boardroom 1 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- R. Farkas

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

**Property Description:**

The subject property, a former "Shell" gas station site, is a 14,153 sq.ft. (square foot) parcel of land, improved with a 900 sq.ft. "C" quality retail structure, that was constructed in 1973 and is currently occupied by a fast food restaurant.

**Issues:**

In section 4 of the complaint form, the Complainant identified the following matters applicable to this complaint:

- |                             |                          |
|-----------------------------|--------------------------|
| 3. an assessment amount;    | 6. the type of property; |
| 7. the type of improvement; | 8. school support.       |

During the course of the hearing, the Complainant evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out the following grounds for the complaint in section 5 of the complaint form with a requested assessment of \$676,500:

Land assessed (2011) at \$68.00 / ft., reduced by CARB (ARB 2271/2010-P) to \$45.00 / ft. bring(ing) assessment to \$676,500. Was an old shell gas station, phase II done - land in front of building remediated, and land under building is still contaminated because it was not feasible to remove building and clean soil. Tenant has been financially struggling because of large tax bill of \$15,000 per yr.

**Complainant's Requested Value:**

At the hearing, the Complainant requested an assessment of \$731,432.

**Board's Decision in Respect of the Issues:**

[1] The Complainant submits that the assessment has been prepared by means of the cost approach to value, and the improvement value is not in dispute.

[2] Although the Complainant agrees that the majority of the subject property's total value is the value of the land, he argues that the assessed land value of \$891,639, equating to a unit rate of \$63.00 per sq.ft., is excessive and warrants a reduction.

[3] In support of the argument, the Complainant provided a "RealNet" ICI Land Transaction Summary in respect of the May 6, 2010 sale of a 19,602 sq.ft. vacant land parcel located approximately six blocks from the subject property, at 4504 17 Ave SE. The parcel carries a land use designation of C-COR2, and the \$954,000 sale price equates to a unit rate of approximately \$48.67 per sq.ft., in contrast to the subject's assessed \$63.00 per sq.ft. unit rate.

[4] The Complainant further argues that although an environmental issue referred to in CARB 2181/2011-P has been apparently rectified, the marketability of the site remains tainted by the subject property's former use as a gas station.

[5] The Respondent submits that the assessed value of the land equates to a unit rate of \$63.00 per sq.ft., founded on a "base" land rate of \$60.00 per sq.ft., adjusted upward by 5% to reflect the subject's "corner lot" characteristic.

[6] In support of the assessed \$60.00 per sq.ft. base land rate, the Respondent provided the particulars of two C-COR (commercial corridor district) land sales, one of which is common to the Complainant's evidence, as set out below:

Address	Sale Date	Sale Price	*TASP	Parcel Size	*TASP Sq.Ft.	Influences	Adjusted *TASP
4504 17 Av SE	Mar 2010	\$954,000	\$906,300	19,602	\$46.24	Contamination & Corner Lot	\$61.65
4523 Monterey Av NW	Oct 2010	\$364,000	\$364,000	6,159	\$59.10	None	\$59.10

*\*Time Adjusted Sale Price*

[7] The Respondent argues that the sale of 4504 17 Av SE, common to the Complainant's evidence, is not comparable to the subject and therefore inappropriate to rely on as a market indicator without adjustment. The Respondent argues that the property is impacted by site contamination, whereas the subject property has been remediated. The Respondent maintains that the sale price is reflective of the property's environmental site contamination (and corner lot location), and adjustments for those characteristics indicate a time adjusted, "typical" base land rate of \$61.65 per sq.ft., in contrast to the Complainant's unadjusted \$48.67 per sq.ft. indication of market value.

[8] In support of the contention that the property located at 4504 17 Av SE is impacted by environmental site contamination, and not comparable to the subject property, the Respondent provided a Geotechnical and Environmental Investigation report authored by Curtis Engineering Associates Ltd. and dated June 8, 2008, indicating the following conclusion:

#### 6.0 Conclusions and Recommendations

"The results of the environmental site investigation indicate that soil on the subject property of 4504 - 17 Avenue SE, Calgary, Alberta, is impacted by petroleum hydrocarbon due to former activities of former gas service station operated at the subject site, and exceed the current Alberta Environment reference guidelines."

[9] In respect of the subject property, the Respondent maintains that remedial excavation has been completed on the subject site, and no further remediation of the site is required; consequently, the typical base land rate of \$60.00 per sq.ft. is appropriate. In support of the argument, the Respondent provided a copy of a remedial excavation report authored by O'Connor Associates Environmental Inc. and dated December 8, 2004.

**Decision:**

[10] The Board finds that the subject property is not affected by contamination.

[11] The Board is persuaded by the Respondent's evidence of a remedial excavation report authored by O'Connor Associates Environmental Inc., and dated December 8, 2004. The report, (and specifically page 6 of the report), is compelling evidence that all of the petroleum hydrocarbon impacted soil has been removed from the property. The Board also accepts that the report's conclusion, "no further remedial work is warranted for this property", indicates that the site is no longer affected by petroleum hydrocarbon contamination. Moreover, the report indicates that the soils and bedrock along the northwest portion of the site, (in the vicinity of the improvement) were tested, and found not to be impacted by petroleum hydrocarbon compounds. The Board notes that the Complainant provided no material evidence in support of his assertion that the land under the improvement is contaminated.

[12] The Board further finds that there is insufficient relevant market evidence to demonstrate that the land assessment is excessive.

[13] The Board applies little weight to the sale of 4504 17 Ave SE, common to both parties' evidence, as the Geotechnical and Environmental Investigation report authored by Curtis Engineering Associates Ltd., dated June 8, 2008, confirms that this property is impacted by petroleum hydrocarbon contamination. Accordingly, the Board finds that this sale is not comparable to the subject property, and is not an appropriate market indicator for the subject property without adjustment. The Board also rejects the Respondent's unit rate conclusion in respect of this sale, as the +30% adjustment is based on the Assessor's contamination "allowance", and is not supported by any "market" evidence.

[14] The Respondent's remaining sale of 4523 Monterey Avenue NW, unchallenged by the Complainant, supports the assessed base land rate of the subject property, and is accepted by the Board as the only relevant indicator of the subject's market value in evidence before the Board.

[15] The Board notes that the Complainant failed to provide any market evidence to support his assertion that the marketability of the site remains tainted by the subject property's former use as a gas station.

[16] Whereas the improvement value is not in dispute, the Board makes no finding in respect of the improvement value; however, the Board reiterates the comments of the Board set out in CARB 2181/2011-P, in respect of the contributory value of the subject improvements.

The assessment is **CONFIRMED** at: **\$929,500**.

DATED AT THE CITY OF CALGARY THIS



DAY OF NOVEMBER, 2012.

  
J. Krysa, Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission

*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.*

**FOR ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Freestanding	Cost Approach	Land Value; Contamination