

**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:

***Venpro Consulting – A division of 566926 Alberta Ltd.
(as represented by Mel Maschmeyer),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Acker, PRESIDING OFFICER
Y. Nesry, MEMBER
R. DesChaine, 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:	068207901
LOCATION ADDRESS:	316 3 Street SE
HEARING NUMBER:	64915
ASSESSMENT:	\$ 2,980,000

This complaint was heard on 2nd day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *Mel Machmeyer*

Appeared on behalf of the Respondent:

- *Dan Satoor*

Property Description:

The subject is a 24,449 square foot parcel improved with a 16,362 square foot warehouse located Centre City East Village Transition District. The building was constructed in 1955 and recent redevelopment in the area has resulted in improvements to the roads and other infrastructure which have impacted the subject.

Issues:

1. Storm water drainage from city lands onto the subject has caused water damage to the structure and has resulted in less utilization of the parking areas.
2. City improvements including a raised curb have created parking and access issues, requiring the rear parking area to be accessed through the city-owned adjacent parking lot.
3. Access to 4th Avenue S.E. was removed in 2009-10 and a cul-de-sac with city parking was installed, thus limiting access to subject.
4. Vagrants in the area create a nuisance to the subject by occupying doorways and grounds in the off-business hours.
5. Future road widening will remove a large part of the building and land.
6. Excess vacancy due to the above noted issues

Complainant's Requested Value: \$ \$1,700,000

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

1. Storm water infiltration – It was agreed by the parties that there is a problem with drainage of the site and that recognition of this should be made in the assessment. The assessor had applied a 15% reduction in assessment for this deficiency.
2. The parties concurred that the site has experienced a reduction in access and the assessor applied a 15% reduction to the assessment in recognition of this deficiency.
3. The 15% reduction applied for reduced access includes this issue.
4. No allowance was given for this nuisance.
5. No reduction applied for potential future road widening.
6. No reduction applied for excess vacancy.

Board's Decision:

The Complainant provided the board with floor plans and photographs detailing the various site issues identified. He noted that the subject is located at the west end of the 4th Avenue flyover roadway and that the banking of this roadway delivers storm water directly onto his property resulting in standing water in his unpaved parking area and water damage to the building. There is no swale to redirect the storm water away from his property.

The assessor agreed that this issue does indeed affect the property and this is recognized in his assessment being reduced 15%. **The Board concurred with this adjustment.**

The Complainant indicated that recent (2009-10) road and infrastructure improvements by the city included the closing of 3rd Street S.E. by creation of a cul-de-sac, the changing of road elevations, and the placement of curb and gutter along 3rd Street S.E.; have all resulted in loss of access and use of parking facilities on his property. The assessor concurred and applied an additional 15% reduction in assessment in recognition of this detriment. **The Board concurred with this adjustment.**

Excess vacancy and nuisance created by vagrants was not recognized by the assessor as the building is approaching the end of its economic life and the assessor applied a land-only valuation approach in reaching his assessed market value. The value applied was that determined as the average for the Centre City East Village Transition District at \$145/sq ft. The Board reviewed the assessor's methodology and source data (sales) used to determine this rate and found it to be appropriate in delivering the \$145 per square foot.

The Complainant produced a map of proposed 4th Avenue widening that he testified was received from the City of Calgary. This map indicated that a significant portion of the subject land and building would have to be taken for this purpose. The Complainant alleged that this future land requirement and removal of the current building has significantly reduced the value of the subject. The Respondent had no knowledge of this future requirement and, after a recess during which he communicated with his planners; he indicated that he could find no information regarding any city plans for the road widening in this area.

After considering the testimony of the parties, the board was unable to determine whether or not the map was a part of a study, a proposal, or from some other engineering or planning project – and therefore the context or certainty of this approach was unknown. Accordingly, the Board could give little weight to the map and argument.

Having determined that the issue of the road widening raised by the Complainant was unsupported by further evidence and having heard the assessor's approach in applying a total of 30% reduction on the land only value of the subject; the Board confirms the assessment of \$2,980,000.

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



J. P. Acker
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.*