

**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:**

***650273 Alberta Ltd. (as represented by Colliers International – Scott Meicklejohn,  
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:

<b>ROLL NUMBER:</b>	<b>075248104</b>
<b>LOCATION ADDRESS:</b>	<b>3110 36 Street SE</b>
<b>HEARING NUMBER:</b>	<b>64935</b>
<b>ASSESSMENT:</b>	<b>1,280,000</b>

This complaint was heard on 2<sup>nd</sup> 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:

- *Scott Meicklejohn*

Appeared on behalf of the Respondent:

- *Daniel Lidgren*

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

A preliminary issue was raised by the Complainant that he had not received a notice of hearing and sought an adjournment to allow for appropriate disclosure exchange. This matter was heard in Boardroom 6 at 09:00 AM on Tuesday, August 2, 2011. Additional attendees for the Respondent were:

- *Kelly Hess*
- *John Ehler*

The Complainant alleged non-receipt of the Notice of Hearing for this matter scheduled for August 2, 2011. The Complainant testified that he first became aware of the hearing date when he received the Respondent's rebuttal package on July 19, 2011. Since the disclosure due date of June 20, 2011 had passed, he requested an adjournment of the hearing and a rescheduled date to allow sufficient time for his disclosure package to be sent to the Respondent.

The Board found that the Complainant had sufficient time after receiving the Respondent's rebuttal package to notify the ARB and the City of Calgary of the loss of notice for the hearing. He did not do so, but rather chose to appear and request a postponement. Accordingly, the board declined to postpone the hearing but rescheduled it to after 1:00 PM on August 2, 2011 in Boardroom 3.

**Property Description:**

The subject is a 17,958 square foot property located in the Dover community. It is improved with a standalone gas bar.

**Issues:**

1. The property is assessed incorrectly as a 19,053 square foot property when the actual size is only 17,958 square feet.
2. The property is incorrectly assessed above its market value.

**Complainant's Requested Value:** \$ 448,500

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

Insofar as the Respondent had received no disclosure from the Complainant, no information was assembled for presentation to the board. Accordingly, there was no disclosure from either party beyond the originating Assessment Review Board Complaint.

The central issue raised by the Complainant was that the subject had sold in January 2009 for \$635,000 and that the market had subsequently softened resulting in a current value of \$448,500. In support of this allegation, the Complainant attempted to introduce a Land Titles certificate indicating a land title transfer to 650273 Alberta Limited for a cash value of \$635,000. No supporting testimony as to how the Complainant arrived at a value of \$448,500 was offered.

The Respondent challenged the introduction of the Land Titles Certificate since it had not been properly disclosed. The board deliberated and ruled that the Land Titles Certificate is a public document and the sale was disclosed in the Assessment Review Board Complaint and therefore was not a surprise to the Respondent. The Land Titles Certificate was accepted as evidence of the subject land value as of January 28, 2009.

**Board's Decision:**

Insofar as both parties presented no evidence beyond that contained in the Assessment Review Board Complaint and in the Land Titles Certificate provided by the Complainant, the Board had no evidence or testimony to indicate any increase or decrease in market value of the subject property over time. The value of the subject is clearly recorded as of January 28, 2009 to be \$635,000. No evidence or testimony was received from either party as to the validity of the sale as an arms-length transaction exposed to the marketplace.

With no additional evidence or testimony from either party, the board accepts this evidence as the best indicator of value and sets the assessment for the subject property at \$635,000 as of July 1, 2010.

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

  
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J. P. Acker  
Presiding Officer

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

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