

**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:

**822771 ALBERTA LTD., COMPLAINANT**  
**(Represented by Assessment Advisory Group)**

and

**The City Of Calgary, RESPONDENT**

before:

**Board Chair P. COLGATE**  
**Board Member M. PETERS**  
**Board Member A. ZINDLER**

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: 201494036**

**LOCATION ADDRESS: 1803 60 STREET SE**

**HEARING NUMBER: 64805**

**ASSESSMENT: \$3,820,000.00**

This complaint was heard on 11<sup>th</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:

- *Mathew Wong – Assessment Advisory Group - Representing 822771 Alberta Ltd.*
- *Troy Howell – Assessment Advisory Group – Representing 822771 Alberta Ltd.*
- *Kashmir Jeerh – Owner of 822771 Albert Ltd*

Appeared on behalf of the Respondent:

- *Cliff Yee – 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.

The Respondent raised a preliminary matter with respect to the assessed value of the property. Following an inspection of the subject buildings, the assessable area was corrected to 16,817 square feet with a corresponding reduction for the assessment to \$3,690,000. The Respondent wished to present their evidence based upon the revised assessment. The Complainant, while accepting the corrected area, was not prepared to accept the revised assessment and was prepared to proceed with the hearing.

The Board ruled the hearing would proceed and the correction to the area and assessment would be recognized for this hearing.

**Property Description:**

The subject property is 2.70 acre site with site coverage of 14.56% and a total building footprint of 16,817 square feet. There are a single, multiple tenant warehouse, constructed 2010, with an assessable area of 16,817 square feet. Land designation is Industrial – General.

**Issue:**

The assessed value is not reflective of the property's market value  
The assessment is incorrect assessed based upon an analysis of adjusted sales.

**Complainant's Requested Value:** Originally requested \$2,770,000, but amended to \$2,670,000 upon the correction of assessable area by the City of Calgary.

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

## Complainant's Evidence:

The owner of the subject property presented testimony with respect to his property. Mr Jeerh, through verbal testimony and plot maps, spoke to his requirement to purchase a parcel of land along 17 Avenue SE in order to obtain another access to the property. Confirmation of the purchase was found in the Complainant's submission C1 Pages 13 through 22, inclusive. Mr. Jeerh also spoke to restriction which the City had placed upon his property – the specific example he gave was being restricted from having a restaurant in the building on the site.

The Complainant included a copy of ARB 1096/2010-P in the submission and made reference to the large increase from 2010 assessment to the 2011 assessment. The assessment in 2010 had reduced to \$1,480,000 by the Assessment Review Board.

The Complainant provided the Board with a copy of the 2011 Property Assessment, The City of Calgary Assessment Summary Report, maps and photographs of the subject property.

Four sales comparables were provided to the Board in support of the Complainant's requested assessment change. The properties were located at 7710 40 Street SE (Comparable 1), 5502 56 Avenue SE (Comparable 2), 12001 44 Street SE and 2840 58 Avenue SE (Comparable 3).

*The Board notes at this point that property at 12001 44 Street SE was not used in the Respondent's analysis (C1, Page 55).* Comparable 1 is located in the Foothills Industrial Park, Comparable 2 is located in the Starfield Industrial area and Comparable 3 is located in the Foothills Industrial Park.

The analysis (C1, Page 55) determines a revised square foot rate for each property. Comparable 1 is adjusted by a total percentage adjustment of +10%, the difference in the year of construction. Comparable 2 is adjusted by a total percentage adjustment of +5 % for the difference in the year of construction. Comparable 3 was adjusted by a total percentage adjustment of +15%, the difference in the year of construction. Based upon the analysis the Complainant is requesting a rate per square foot of \$159.00 for a revised assessment of \$2,673,903 (16,817 square feet X 159.00), rounded to \$2,670,000. *(NOTE: This value is different from that which appears in the Complainant's submission due to the assessable area correction by the City of Calgary)*

The evidence submitted by the Complainant identifies the subject property having an A- quality classification, while Comparable 1 is classified as C quality structure and Comparable 2 is classified as B+ quality structure. *Comparable 3 is identified as a C+ quality structure from evidence submitted by the Respondent.*

Additional evidence submitted by the Complainant included an outline of the AAG Valuation Methodology, which the Complainant referred in questioning, from the Warehouse Valuation Guide' Page 38 and an additional page from the Warehouse Valuation Guide concerning 'Figure 6. Form Whs3 – Example of Sales Adjustment Processx'.

Also submitted as evidence for the Board's consideration were Composite Assessment Review Board Decisions – CARB 2077/2010-P, CARB 2093/2010-P, CARB 2103/2010-P and CARB 2086/2010-P, which the Complainant stated supported the adjustments made to the sale prices of the submitted comparables.

**Respondent's Evidence:**

The Respondent provided a location maps and four photographs of the subject building.

The Respondent's evidence consists of three primary pieces of evidence in support of the assessment value – a 2011 Assessment Explanation Supplement, a diagram of the subject building and an Industrial Sales Comparables chart with 7 sales to substantiate the rate per square foot being applied to the subject ranging from \$161.00 to \$ 198.00 per square foot

The Supplement provides the details with respect to the subject property – footprint, assessable area, and the percentage of finish, year of construction, site coverage and rates per square foot of \$177.00 for the subject building, used in the determination of the assessment value.

The Respondent submitted four decisions which supported their position for evidence to be submitted to support the requested adjustments – ARB 1041/2010-P, ARB 1046/2010-P, ARB 0530/2010-P. and CARB 1034/2011-P.

ARB 0394/2007-P was submitted also in support of the Respondent's position. Also an industrial warehouse complaint the decision speaks to the requirement for analysis to be conducted using similar properties

The Respondent raised a concern with respect to the Complainant's comparable located at 2840 58 Avenue SE. The Respondent provided a copy of the Alberta Government Services Land Title – 101106276. The document showed the consideration paid as \$1,425,000.00, but the opinion of current value as \$1,900,000.00 (R1, Pages 19-22). The Respondent submitted a copy of a City of Calgary Non Residential Property Sales Questionnaire on which the property was identified as being only 'Fair' overall condition at the time of sale (R1, Page 24).

The Respondent questioned the Complainant's submission with respect to the range of the Complainant's sales comparables. The adjusted price per square foot, ranging from \$84.00 to \$204.00 per square foot, has a difference of \$120.00 per square foot from lowest to highest. In the opinion of the Respondent the range was not indicative of a properly prepared comparison study.

The Respondent questions the used of the Complaint's comparable at 2840 58 Avenue SE as it is a structure 36 years older than the subject buildings year of construction in 2010. The Respondent did not feel a 15% adjustment adequately reflects the age difference.

**Findings of the Board****Complainant's Submission:**

The opinion of the Board, with respect to the testimony of Mr. Jeerh, is the purchase has no relevancy to the decision to be made. The purchase of the additional land was to obtain an additional access to the subject site from 17 Avenue SE, as testified to by Mr. Jeerh. The purchase was a management decision by the owner and was not forced upon him. Documents provided clearly show there were negotiations with the City.

The Board also notes the Complainant, through the Assessment Advisory Group, did not include these issues in the calculation for the revised assessment value.

With respect to the 2010 Assessment Review Board decision, the Board would point out the decision was on a complaint of vacant industrial land, not an improved parcel. The Complainant should appreciate the addition of the new building on the site in 2010 would add value to the property and thus result in a higher assessment value.

The submission of the Complainant raised a number of concerns for the Board. Of primary concern to the Board is the lack of market evidence or analysis in the percentage adjustment being applied by the Complainant to the sale comparables. During questioning by the Board, the Complainant referred the Board to the AAG Valuation Methodology (C1, Page 19) and the Statement from the Appraisal Institute of Canada – 'It is the appraiser's experience and judgement that is important,' and therefore there was no need to submit any evidence as to how the adjustments were derived.

This position concerns the Board as it seems to go against the intent of the Appraisal Institute of Canada and their position on determining values. Within the quoted passage (Appraisal Institute of Canada 'Basics of Real Estate Appraising' 1994 Chapter 11 – The Direct Comparison Approach (VI) Types of Adjustment Pg 241) is another sentence which reads – 'This should not diminish the importance of using mathematics to assist in the value judgement.' Additionally, the opening paragraph to the AAG Valuation Methodology states 'our statistical analysis incorporated a measure of variance using coefficients of dispersion' which indicated to this Board analysis is conducted by the Complainant, who chooses not to submit this work.

Further the Board refers to the Complainants Submission on Physical Differences (C1, Page 20.), which reads 'Physical Differences such as superior height, a newer building, a better location, etc. must also be accounted for because they have an impact on the sale price. Establishing appropriated adjustments for these differences requires analysis of the sales data and stratifying sales into homogeneous classes'. Another reference from the same page states, 'Adjustments to sales data should be completed on the basis of research and analysis of the data.'

It is the opinion of the Board any analysis on the sales should be submitted in support of the adjustments. With no analysis submitted, the Board is not prepared to accept the requested adjustments and the requested change to the assessment. The burden of proof therefore fails for the Complainant.

The Board also notes there is not recognition for the differences in quality between the subject and each of the comparables, which would occur in standard appraisal technique. The Respondent stated this was recognized in other adjustments, but the explanation received as to how the adjustments were determined did not appear to recognize this variable in the calculation. The Respondent had stated the calculation for coverage was a change of 5% for every 9% of difference between the subject and the comparable. Year of construction is adjusted at a rate of 5% for every 10 years of difference between the subject and the comparable. Building size adjustment is based upon an adjustment of 5% for every 7000 square feet of difference between the subject and the comparable.

With respect to the Composite Review Board decisions of 2010, the 2011 Board is not bound by the decisions of prior year's Boards, as each year is a new assessment with changing market

conditions affecting the values. The Board may take guidance from past decisions with respect to physical conditions such as lot size or building areas, but must make its own decision with respect to the current year's assessment. The Board finds the decisions provide little guidance as there is insufficient evidence contained in the decisions to show how the decisions were determined or the evidence submitted at the hearings. The Board does take some guidance from the decisions, CARB 2077/2010-P, CARB 2093/2010-P and CARB 2086/2010-P, when addressing the Respondent's submissions – specifically the statement - 'the adjustments applied were not supported by evidence'. Although speaking to the Respondent, the rule is equally applicable to the Complainant. Adjustments, without evidence, carry less weight with the Board.

#### Respondent's Submission:

The Board accepts the revised assessable area for the subject property and will use the new area in its decision.

Upon review, the Board finds the sales, all located in the south east quadrant of the City of Calgary, provided support to the rate per square foot applied to the subject property of \$177.00, with time adjusted sale prices ranging from \$161.00 to \$198.00.

The Board considered the concern raised by the Respondent about the property at 2840 58 Avenue SE with respect to the sale price and the age. The value used by the Complainant is the declared consideration paid by the purchaser whereas the opinion stated is the owner's personal opinion as to its worth. The Board appreciates the concern raised by the Respondent but there is insufficient evidence to discard the sale from the Complainant's submission. The Board does agree with the Respondent's position on the age difference between the comparable and the subjects, a difference of 36 years in age, is stretching the boundaries of comparability, especially when no market evidence is presented to support the percentage adjustment.

The Board looks to the presentation of Assessment Review Board and Composite Assessment Review Board decisions. Both parties have presented decision in support of their positions with respect to the disclosure of supporting evidence.

It is the opinion of this Board; the presentation of supporting evidence can only enhance the quality of any presentation and is a critical part of supporting a position by either party. With that said, it is the opinion of the Board, based upon prior decisions - *Manyluk v. Calgary (City)*, MGB Board Order 036/03 (Page 8), *Shirley Anne Ruben et al v. City of Calgary* MGB 239/00 (Page 15) and *Imperial Parking Ltd v. Calgary (City)* Board Order MGB 140/02 (Paragraphs 34 and 37) - there is a greater onus on the Complainant to provide the evidence to support their case, for failing to do so means the burden of proof is not met.


**Board's Decision:**

The Board finds the Complainant has failed to provide sufficient market evidence to substantiate a change to the assessment.

The Board does accept the recommendation of the Respondent to amend the assessment based upon the correction of the assessable area.

The Board amends the assessment at **\$3,690,000.**

DATED AT THE CITY OF CALGARY THIS 12<sup>th</sup> DAY OF SEPTEMBER 2011.



Philip Colgate  
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.*