

**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:**

***Panterra (5256) Properties Inc. (as represented by Altus Group Limited), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***M. Vercillo, PRESIDING OFFICER***

***A. Wong, MEMBER***

***P. Pask, 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: 201578499**

**LOCATION ADDRESS: 6010 4 ST SE**

**HEARING NUMBER: 64126**

**ASSESSMENT: \$903,500**

This complaint was heard on the 10<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 2.

Appeared on behalf of the Complainant:

- *R. Worthington*

Appeared on behalf of the Respondent:

- *P. Sembrat*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**Property Description and Background:**

The subject property is a vacant land property located in the "Manchester Industrial" area of SE Calgary. The subject has an assessable land area of approximately 1.72 acres.

According to the Respondent's 2011 assessment information, the subject has a land use designation of "Industrial – General" (I-G) and accordingly is assessed at a rate of \$525,000 per acre.

**Issues:**

The CARB considered the complaint form together with the representations and materials presented by the parties. There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issue as restated below:

- 1) The land adjustment applied to the subject property is incorrect and inequitable because of environmental issues and lack of servicing.

**Complainant's Requested Value:**

\$406,575 on the complaint form revised to \$225,750 at this hearing.

**Board's Decision in Respect of Each Matter or Issue:****ISSUE 1: The land adjustment applied to the subject property is incorrect and inequitable because of environmental issues and lack of servicing.**

**The Complainant** provided a document entitled "Evidence Submission of Complainant" that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- Argument that the property, although adjacent to services along 4<sup>th</sup> ST SE, must obtain City of Calgary utility services by connecting to underground services along 58<sup>th</sup> Av SE, approximately 1 block away. Other than internal budget documents from Panterra implying costs associated with service connections, the Complainant provided no further evidence with respect to the requirement to connect services along 58<sup>th</sup> AV SE.
- Evidence was provided that the City of Calgary assessment office typically provides for a 50% land rate reduction for properties found with "no service" issues.
- A letter from Civiltec Consulting Ltd. to Panterra dated October 16, 2006 referencing clean-up costs for environmental contamination.
- A letter from Base Property Consultants Ltd. to Panterra dated October 25, 2009 regarding a 2009 update on the Phase One and Phase Two environmental site assessments for 515 – 58<sup>th</sup> AV SE. The environmental assessment of this property took place before the eventual subdivision of the subject property.
- The Phase One and Phase Two environmental site assessments for 515 – 58<sup>th</sup> AV SE. Again, the environmental assessment of this property took place before the eventual subdivision of the subject property. The report indicated that "EBA noted elevated organic content in the fill material and have recommended a methane Risk Management Plan and a methane management system for any new construction on the property..."
- A letter from Tiamat Environmental Consultants Ltd. to the Environmental Management department of the City of Calgary dated December, 2009. The letter indicated some remedial or risk management alternatives that the City of Calgary may consider upon any future development of the subject property. The alternatives included:
  - "Excavation and removal of the buried organic-rich sediments..."
  - "...Controlling the migration of methane gas and preventing entry into an enclosed space within the building..."
  - ...installation of a gas impermeable geo-synthetic membrane..."
  - "The "do nothing" option...the municipal planning authority may reserve the right to reject the development application on the basis of the "do nothing" action."
  - ...The type of foundation system must be considered during the engineering planning phase for remedial/risk management options for the methane gas.
- Internal budget documents from Panterra implying \$200,000 in costs associated with an installation of a methane blanket.
- Evidence was provided that the City of Calgary assessment office typically provides for a 30% land rate reduction for properties found with environmental concerns.

**The Respondent** provided an "Assessment Brief" document that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- Argument that the contamination is not registered on the Land Title and therefore is likely not an issue.

- Argument that the letter from Tiamat to the City of Calgary provides for a "do-nothing" option for the City of Calgary to consider upon site development. The "do nothing" option is typically not found in recommendations on sites with serious contamination concerns.
- There is no evidence that the City of Calgary requires any environmental remediation at this point.

The CARB finds the following with respect to this issue:

- That there is no direct evidence proving that the subject property is unserviced and would be required to connect servicing to 58<sup>th</sup> AV SE upon site development.
- That the Complainant was able to prove that there may be some contamination issues on the subject property that may have to be addressed upon site development.

**Board's Decision:**

The complaint is accepted in part and the assessment is revised to \$632,000.

- The CARB accepts the argument that the subject property has contamination issues. Although it is not clear that the contamination issue would have to be addressed upon site development, we are convinced that the mere uncertainty may compromise its market value. The assessment is therefore reduced by 30%.

DATED AT THE CITY OF CALGARY THIS 30<sup>th</sup> DAY OF August 2011.



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.*