

**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:

***G & A Holdings Ltd.
(as represented by Assessment Advisory Group), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
D. Steele, MEMBER
K. Farn, 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:	093151603
LOCATION ADDRESS:	3435 46 Ave SE
HEARING NUMBER:	64843
ASSESSMENT:	\$ 672,000

The complaint was heard on August 22, 2011, in Boardroom 2 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:

- J. Greer

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

At the commencement of the hearing, the Respondent argued that the Complainant's evidence was inadmissible, as disclosure of the evidence was not received within the proper time pursuant to section 8 of *Matters Relating to Assessment Complaints Regulation, AR 310/2009*. The Respondent submitted that the deadline for receipt of the Complainant's evidence was midnight, July 11, 2011, and the documents were not received by that time. In support of the argument, the Respondent submitted a "system" email, dated July 11, 2011 at 11:47 p.m. indicating that the original message was not delivered as a result of permanent fatal errors at the email addresses of arb@calgary.ca and asmt.tribunal@calgary.ca, "Message size exceeds fixed maximum message size" [R1]. The Respondent submitted that the municipality's email server does not have a maximum message size limit, and argued that the responsibility rests with the Complainant to ensure the deadline is met.

The Complainant argued that the disclosure of evidence was made within the proper time on July 11, 2011. However, due to technical errors beyond the control of the Complainant, the materials were apparently not received by the Respondent before the midnight deadline. The Complainant submitted that the materials were immediately re-sent to the Respondent upon discovery of the delivery failure the next morning.

Decision:

The Board finds that the Complainant's evidence was disclosed within the proper time, pursuant to section 8 of *Matters Relating to Assessment Complaints Regulation, AR 310/2009*.

8 (2) *If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:*

- (a) the complainant must, at least 42 days before the hearing date,*
 - (i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing,...*

The Respondent's evidence of delivery failure (R1), sent at 11:47 pm on July 11, 2011, confirms the Complainant "disclosed" the evidence to the Respondent before the midnight deadline. The fact that the document was not "received" due to permanent fatal errors at the Respondent's email addresses does not invalidate the Complainant's disclosure of the document before the deadline.

Property Description:

The subject property is a 6,484 sq.ft. (square foot) parcel of land, improved with a 2,751 sq.ft. warehouse structure, constructed in 2008.

Issues:

The Complainant raised the following matter in section 4 of the complaint forms:

3. an assessment amount

The Complainant set out 2 grounds for the complaint in section 5 of the complaint form with a requested assessment of \$600,000. However, at the hearing the Complainant led evidence and argument only in relation to the following issue:

- The assessed value is incorrect and fails to meet the legislated standard of market value.

Complainant's Requested Value:

The Complainant requested an assessment of \$600,000.

Parties' Positions:

The Complainant argued that the assessment of the subject property exceeds its market value. In support of the argument, the Complainant submitted three comparable sales that exhibit a range of sale prices from \$199 to \$218 per sq. ft. in contrast to the subject's assessment at \$244 per sq.ft. The Complainant further applied adjustments to the three sale prices, to reflect the characteristics of the subject property, and determined that a rate of \$218 per sq.ft. was applicable to the subject.

The Respondent did not submit any market evidence in the matter.

Board's Decision:

The Board finds that the assessed value is incorrect and fails to meet the legislated standard of market value.

The Board was persuaded by the Complainant's undisputed evidence and argument relating to the market value of the subject property. The Respondent did not submit any market evidence to refute the Complainant's evidence and argument, or in support of the current assessed value.

The assessment is revised from \$ 672,000 to \$ 600,000.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF OCTOBER, 2011.


J. Krysa
Presiding Officer

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

NO.	ITEM
1. R1	Respondent's Submission (email)
2. C1	Complainant'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	Jurisdiction/Procedural	Information Exchange	Late Exchange	
	Warehouse	Single Tenant	Sales Approach	