

**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:

***Chief Construction Company 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:	118003664
LOCATION ADDRESS:	6215 90 Ave SE
HEARING NUMBER:	63465
ASSESSMENT:	\$2,320,000

The complaint was heard on August 25, 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:

- I. McDermott

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is a 4.22 acre parcel of land, with a land use designation of "IG" – Industrial General. The assessment record submitted as the Respondent's recommendation, [R1], indicates that the land is improved with a 1,360 sq.ft. (square foot) single-tenant industrial warehouse, constructed in 2008, with 100% office finish; although the municipality's assessment summary sheet at C1, p.3, indicates the improvement is a "Trailer".

Issues:

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

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 \$1,717,000. However, at the hearing the Complainant led evidence and argument only in relation to the following issue:

- The subject assessment is inequitable with the assessments of other properties in South Foothills.

Complainant's Requested Value:

At the hearing, the Complainant requested that the subject property be assessed at \$1,717,000.

Board's Decision in Respect of the Issue:

The Complainant argued that the assessment of the subject property was inequitable with other, similar properties in the South Foothills community, which have been granted a -15% allowance to compensate for the cost of constructing local improvements which are not reflected in the market value of the properties. In support of the argument, the Complainant submitted a copy of the November 25, 2010 general meeting minutes of the South Foothills Owner's Association, indicating that the City of Calgary agreed that a 15% deduction would be applied to property assessments in South Foothills [C1, pp.9-10].

The Complainant further argued that the -15% allowance was to be applied to the 2010 (tax year) assessments for the 2011 tax year. However, the evidence indicates that this allowance was not applied to the subject property, as the assessment has increased by 15%; nor consistently amongst other properties. In support of that argument, the Complainant submitted the 2011 assessment summary reports and assessment notices for eight South Foothills properties indicating various changes in 2011 assessments from the 2010 year, as set out below: [C1, pp.11-26]

SE Address	2010 Assessment	2011 Assessment	Change
9616 40 St	\$ 3,750,000	\$ 3,430,000	-9%
9717 40 St	\$ 8,070,000	\$ 5,690,000	-30%
4045 96 Ave	\$ 5,790,000	\$ 4,660,000	-20%
8715 40 St	\$ 3,560,000	\$ 2,120,000	-40%
8616 40 St	\$ 6,990,000	\$ 6,130,000	-12%
8715 48 St	\$ 3,560,000	\$ 3,080,000	-14%
8615 48 St	\$ 5,890,000	\$ 4,550,000	-23%
4103 Glenmore Tr.	\$ 1,970,000	\$ 1,870,000	-5%
Subject Property	\$ 2,020,000	\$ 2,320,000	+ 15%

The Complainant argued that the subject property was not awarded the agreed allowance of -15%, and requested that the Board set the assessment as determined below:

2010 Assessment	-15% Allowance	=	Requested 2011 Assessment
\$ 2,020,000	- \$ 303,500	=	\$ 1,717,000 [C1, p.27]

The Respondent did not submit any evidence in response to the Complainant's submissions, however, the Respondent argued that the "agreement" with the South Foothills Owner's Association was never intended to adopt the 2010 (tax year) assessments with an additional -15% allowance, but rather, the -15% allowance was to be applied to the 2011 (tax year) assessments.

With respect to the subject property, the Respondent did not submit an explanation of how the current assessment under complaint was prepared. Rather, he submitted a recommended reassessment in the amount of \$2,140,000 (truncated), prepared by means of the income approach, incorporating a \$1,836,733 adjustment for "extra land" that includes the -15% allowance requested by the Complainant.

In response to the Respondent's submission, the Complainant argued that the Respondent's recommended assessment places an excessive value of \$310,760 on an "office trailer", and 0.1 acres of land, and therefore should not be accepted by the Board.

Decision:

The Board finds that the subject assessment is inequitable with the assessments of other properties in South Foothills, which have been provided a -15% adjustment.

With respect to the type of improvement on the land, the Board makes no finding in that regard as there was not any evidence submitted to the Board to enable it to make a finding. The Board notes that neither party inspected the property, and therefore neither party could speak with any certainty as to the physical characteristics of the improvement.

Although the Respondent argued that the [assessment] model itself is not a basis for a reduction, the Respondent applied the industrial warehouse model coefficients to the

unconfirmed attributes of a property that he conceded may be a warehouse structure, or an office trailer, or a temporary structure. Consequently, the Board is not persuaded to accept the Respondent's recommended land and improvement assessment.

Further, although there was no evidence provided regarding the current assessment under complaint, the Board notes that the total assessment, in effect, reflects the value of the land based on the typical land coefficients applied in the Respondent's recommendation, without any contributory improvement value:

4.22 Acres @ \$525,000 per acre =	\$2,215,500	
Corner Influence	+ 5%	\$ 110,775
Total		\$2,326,275 \$2,320,000 (truncated)

As there was no market evidence to dispute the \$525,000 per acre land rate from the Complainant, the Board accepts this rate as a typical rate applicable to typical I-G parcels. The Board further accepts that a -15% allowance for the South Foothills location is applicable to the subject property's 2011 assessment calculation, as included in the Respondent's recommendation to the Board.

The Board did not find the Complainant's argument regarding an adjustment to the previous year's assessment to be very compelling, as the general meeting evidence (C1, p.10), refers to, "3. Report on Property Taxes for 2011", and states, "The City uses a secret formula to calculate industrial tax assessments, to which they have applied a 15% deduction to properties in South Foothills". The Board notes that it appears to be understood that the 15% allowance will be applied to the 2011 (tax year) assessments, as calculated by the "secret formula"; and further, there is no reference to the 2010 (tax year) assessments of the properties. Notwithstanding, the particulars of any agreement, the Board finds that the legislative authority is clear with respect to the July 01 valuation date, and that requirement cannot be circumvented by agreement.

Board's Decision

The Assessment is revised from: \$2,320,000 to **\$1,970,000**, calculated as follows:

4.22 Acres @ \$525,000 per acre =	\$2,215,500	
Corner Influence	+ 5%	\$ 110,775
Subtotal		\$2,326,275
South Foothills Allowance	- 15%	\$ 348,941
Land Assessment		\$1,977,333 \$1,970,000 (truncated)

DATED AT THE CITY OF CALGARY THIS 19 DAY OF OCTOBER, 2011.


 J. Krysa
 Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Recommendation

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	Other	Vacant Land	Equity	Land Value