

**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:

**338949 Alberta 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:	119010304
LOCATION ADDRESS:	8515 44 St SE
HEARING NUMBER:	64848
ASSESSMENT:	\$2,120,000

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:

During the course of the hearing, the Respondent raised the matter of costs. The Complainant indicated that he did not require a postponement to properly respond to a cost application.

The Respondent argued that this matter before the Board did not have a reasonable chance of success, due to deficiencies in the Complainant's evidence submission. The Respondent made an application for costs in the amount of \$1000, for preparation for the hearing pursuant to Schedule 3 of *Matters Relating to Assessment Complaints Regulation, AR 310,2009*.

Where a composite assessment review board or the Municipal Government Board determines that a hearing was required to determine a matter that did not have a reasonable chance of success, it may award costs, up to the amounts specified in the appropriate column in Part 2 or 3, against the party that unreasonably caused the hearing to proceed.

The Complainant argued that filing of the complaint was not without reason, as the owners of the properties were advised that a reduction would be implemented to properties in South Foothills. However, when the 2011 assessment notices were received, there was an apparent inconsistency in the change from 2010 to 2011 amongst the properties; with some reduced significantly, and some increased significantly during a period of general market decline. The Complainant further argued that information known only by the Respondent is not made available to the Complainant, and there is no explanation of the assessment parameters included with the assessment notice, only the assessed value of the property. The Complainant also submitted that the Respondent's website does not provide adequate information to enable a taxpayer to determine if a property is assessed equitably with other similar properties, as assessment details are limited.

Board's Decision in Respect of Costs:

The Respondent's application for costs in the amount of \$1,000.00 is denied.

The Board accepts the Complainant's argument that property owners quite rightly question assessments that change significantly and inconsistently from one year to the next, without apparent reason or explanation from the assessing authority. In this instance, the evidence before the Board demonstrates that the 2011 assessments of eight neighbouring industrial properties declined between 5% and 40% from their 2010 valuations, in contrast to the subject property that increased by 30% in the same time period, and obviously under the same market conditions; a circumstance that appears incongruous considering there is an agreement with the owners association to apply a -15% allowance to the property values.

The Board rejects the Respondent's argument that costs should be awarded, as the property owner could have accessed the assessment information on the municipality's website, or attended the assessor's office to obtain detailed information of the assessment. The legislation provides a right of complaint to an assessed person; it does not require the assessed person to research a municipality's website, or attend the assessor's office to determine if the properties are fairly and equitably assessed. Further, the Board is persuaded by the Complainant's argument that taxpayers are not provided with a transparent process from which to compare assessments; a sentiment noted in the minutes of the South Foothills Owner's Association at page 9 of C1, "The City uses a secret formula to calculate industrial assessments..."

Property Description:

The subject property is a 4.75 acre parcel of land, with a land use designation of "I-G" – Industrial General, improved with a fabric, quonset structure that has not been assessed.

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 \$1,383,375. 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 \$1,383,000.

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, 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	\$ 1,627,500	\$ 2,120,000	+ 30%

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
\$ 1,627,500	- \$ 244,125	=	\$ 1,383,375 [C1, p.27]

In response to the Complainant's submissions, 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.

The Respondent further argued that the Complainant's examples were all improved properties. Therefore they were dissimilar to the subject property, and as a result of an alternate valuation methodology, the changes in their assessments would also reflect considerations other than the -15% allowance.

With respect to the subject property, the Respondent submitted that the requested -15% allowance has been applied to the July 01, 2010 market value estimate for the subject's 2011 assessment, as follows:

4.75 Acres @ \$525,000 per acre	=	\$2,496,007
South Foothills Allowance - 15%		<u>\$ 374,401</u>
Land Assessment		\$2,121,606 (\$2,120,000 truncated)

In support of the \$525,000 per acre I-G land rate, the Respondent provided 18 land sales exhibiting a range of time adjusted sale prices of \$443,460 to \$712,310 per acre, with average and median rates of 543,773 and \$524,938 per acre, respectively [R1, p.12].

In response to Board questions, the Respondent indicated that he was unaware of how the prior (2010 tax year) assessment was calculated, or explain the significant increase of the current year.

Decision:

The Board finds that the subject assessment is equitable with the assessments of other properties in South Foothills, with respect to both the land rate coefficient, and the applied -15% land adjustment.

As there was no market evidence to dispute the \$525,000 per acre land rate, the Board accepts this rate as a typical rate applicable to typical I-G lands, and finds that it appears to have been consistently applied amongst the parcels for the 2011 tax year.

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.

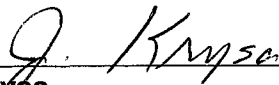
Board's Decision

The assessment is confirmed at: **\$2,120,000.**

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 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	Other	Vacant Land	Equity	Land Value