

**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:

***ADJ Enterprises Inc, COMPLAINANT (represented by Colliers International Realty
Advisors Inc.)***

and

The City Of Calgary, RESPONDENT

before:

***F.W. Wesseling, PRESIDING OFFICER
B. Jerchel, 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: 095000121

LOCATION ADDRESS: 3900 52 Street SE

HEARING NUMBER: 61108

ASSESSMENT: \$6,900,000

This complaint was heard on the 29th 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:

- Mr M. Uhryn -- Agent, Colliers International Realty Advisors

Appeared on behalf of the Respondent:

- Mr. C. Yee -- Assessor, City of Calgary

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

The Respondent indicated that information provided in the rebuttal was new evidence. In particular, the Respondent drew the Board's attention to pages 7-9, pages 12-21 and pages 25-39 of the rebuttal. The Board indicated that it would review those pages during the rebuttal by the Complainant and determine if the objection was valid.

Property Description: Subject property is located in the Forestlawn Industrial area along 52nd Street between Peigan Trail and Erin Woods Drive. The site contains 9.3 acres on which a number of warehouse structures are located. These improvements consist of a 13,128 square foot warehouse, a 3,200 square foot warehouse, a 3,120 square foot outbuilding and a 960 square foot trailer. The site is not serviced by municipal water and sewer. There is also extensive outdoor storage on the site. Immediately to the east of the subject property is a landfill site.

The site is classified "I-G" Industrial General District in the City of Calgary Land Use Bylaw.

Issues: The Complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount

Presentation of the Complainant and Respondent were limited to:

- Assessment overstated in relation to comparable properties.
- Assessment overstated in relation to the land use restrictions on the property

Complainant's Requested Value: \$3,930,000

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

Complainant's position: In support of the Complainant's request, a deferred servicing agreement and a restrictive covenant registered against the title were presented. The deferred servicing agreement registered in 1973 by the City of Calgary outlined the future requirement as to when the property is to be serviced by water, sanitary and storm sewer services. The restrictive covenant (rc) was presented by the Complainant to indicate that the property was restricted in terms of its use due to a direct control designation, however upon review the "rc" was primarily concerned with protecting access to and from the site.

Five sales comparables were provided, four of which were located in NE Calgary and only one

in the SE. These comparable sales dated from December 2009 to March 2010. The chart provided by the Complainant showed a median sales value of \$120.00 per square foot while the median assessed value for these properties is \$129.00 per square foot while the subject property is assessed in the \$190.00 per square foot range. In addition the Complainant outlined concerns with the treatment of the property with regard to site coverage and how excess lands were assessed.

Respondent's Position: The City indicated that all municipal services (water, sanitary and storm) were in close proximity to the subject property and as such it was deemed to be for assessment purposes to be serviced. However the maps provided did show the property is in fact, as are the neighbouring properties, not serviced. Six equity comparables were provided. These were located in SE Calgary. These were fully serviced properties. In addition, seven sales comparables in SE Calgary were outlined as well as six land only sales comparables. These were all located in SE Calgary. The Respondent questioned the similarity of the Complainant's comparable sales properties and provided a map outlining the location of both parties comparable sale properties.

In Rebuttal, the Complainant focused on presenting information for the Board's consideration with regard to the City of Calgary 2011 influence Chart. In particular, the immediately adjacent properties were reviewed and it was shown that the assessments for these properties were adjusted by 25% for partial services. This adjustment was not applied to the subject property as in previous years. In addition the Complainant addressed that an additional adjustment should be provided with regard to land use.

Board's Decision: The Board found that in terms of the preliminary matter raised by the Respondent that the rebuttal information questioned was provided in direct response to data provided by the Respondent and as such the pages noted above, were determined to be valid and relevant. Upon reviewing the verbal and written evidence provided by the parties, the Board considers that data and information presented by the Complainant partially warrant a reduction in the assessment. The Board reduces the assessment to \$5,170,000.

Reasons: The subject property has been assessed for full municipal services despite the fact that both parties agree that no services extend into the property. Adjacent properties are assessed with the application of a partial services adjustment. The Board considers that the subject property should not be treated differently particularly as the adjustment was applied in previous years. The Board did not support the notion that the property was restricted in terms of land use by means of the encumbrances registered against the title. In the Board's view these encumbrances dealt with access and servicing issues, items to be addressed when the property is to be redeveloped in the future. Having regard to Section 467 (3) of the Municipal Government Act, the Board found alteration to the assessment was warranted.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF September 2011.



F.W. Wesseling
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

Complainant: C1 Evidence Submission of the Complainant to the 2011 ARB
C2 Rebuttal as prepared by Colliers International.
Respondent: R1 Assessment Brief prepared by City of Calgary Assessment

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 MGB Administrative Use Only

Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Warehouse(single tenant)	Sales approach	Land and improvement comparables	Serviced vs non-serviced