

**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:

***Cargill Limited (as represented by DuCharme,
McMillen and Associates (Canada) Ltd), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
M. Peters, MEMBER
E. Reuther, 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:	091014001
LOCATION ADDRESS:	4615 15 ST SE
HEARING NUMBER:	63315
ASSESSMENT:	\$9,370,000

This complaint was heard on 24 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. Pierson* *Agent, Ducharme, McMillen & Associates Canada Ltd.*
- *Mr. C. Abbott* *Agent, Ducharme, McMillen & Associates Canada Ltd.*

Appeared on behalf of the Respondent:

- *Mr. D. Kozak* *Assessor, City of Calgary*
- *Mr. T. Luchak* *Assessor, City of Calgary*

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

The parties indicated that they had reached agreements on 3 of the 5 issues under complaint for the subject property; particularly, the elevator rate per bushel, the annex rate per bushel and the removal of the commercial installation and industrial bulk application. As a result of those agreements, the Respondent agreed to reduce the 2011 assessment of subject property to \$8,300,000. However, the Complainant was seeking a further reduction based on effective age and depreciation which remained as issues before the Board.

Property Description:

The subject property is known as the Cargill Limited Grain Terminal facility located in Alyth/Bonnybrook. It was used for grain handling, milling and merchandising. The grain terminal was constructed in 1915 and was situated on 12.91 acres of land. The land use designation is I-H, Heavy Industrial. It was assessed based on the Cost Approach to value.

The grain facility was vacated in January 2011 and demolition permits were issued.

Issues:

1. The depreciation for the entire facility should be put to full depreciation of 80%.

Complainant's Requested Value: \$6,511,000

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

1. The depreciation for the entire facility should be put to full depreciation of 80%.

The Complainant submitted that the elevator and ancillary buildings should have received 80% depreciation based on its physical age and characteristics. This was the rate the Respondent has applied in the previous year's assessment (Exhibit C1 page 20). The Complainant stated that there is no market for a grain elevator located in the middle of the City of Calgary.

The Complainant submitted a news release issued in December 2010 indicating that the facility would be shut down by January 31, 2011 (Exhibit C1 page 24). He argued that the assessor should have taken the impending closure into consideration when assessing the characteristics

and physical condition of the property in accordance with section 289(2)(a) of the *Municipal Government Act*. Moreover, the Complainant submitted photographs of the grain elevator as well as several ancillary buildings in support of the 80% depreciation request (Exhibit C1 pages 32 - 38). The Complainant also submitted an article from the *Calgary Herald* dated August 1, 2011 which addressed the grain elevator's impending demolition (Exhibit C2 pages 5 & 6). The Complainant testified that he had inspected this property in December 2010. He set out the calculations for his request (Exhibit C2 page 3).

The Respondent submitted a summary of the calculations that he had used to assess the subject property based on the Cost Approach and was guided by *Marshall & Swift* (Exhibit R1 page 17). He acknowledged that there was an element of subjectivity when determining the effective age of this grain elevator (which is not its actual age) and he exercised his best judgement. The Respondent submitted that he inspected the property in the summer of 2010 and stated it was fully functional. Based on his inspection, he determined the effective age to be 26 years (60 year life – 34 years remaining) and applied a 66% depreciation value based on the effective age. He applied different effective ages for the ancillary buildings (15 - 30 years) and depreciation rates (34% - 52%). The Respondent was unaware that the premises were vacated in January 2011 as the property owner or its representatives failed to advise the City. He also noted that the land value of \$4,362,750 (\$350,000/acre) was not in dispute before the Board.

The Board finds the Complainant did not provide sufficient evidence to challenge the depreciation rates. He relied heavily on the buildings' age to support the requested 80% depreciation rate. The Board noted that each of the parties had inspected this property at some point in 2010. Each had testified that at the time of his inspection, the grain elevator was fully operational and functional. The Complainant's photographs illustrated that the buildings appeared to be in good condition. The operations did not cease until 2011 and there was testimony given that the elevator has since been demolished; however, that should be addressed in the 2012 assessment for the subject property.

Board's Decision:

The decision of the Board is to revise the 2011 assessment for the subject property from \$9,370,000 to \$8,300,000.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF OCTOBER 2011.



Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
1. C1	Complainant's Submission
2. C2	Complainant's Rebuttal
3. 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.*