

**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:**

***RIVERTON CONSTRUCTION LIMITED, COMPLAINANT  
(Represented by Assessment Advisory Group Inc.)***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Board Chair P. COLGATE  
Board Member B. JERCHEL  
Board Member E. REUTHER***

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: 201163912**

**LOCATION ADDRESS: 8330 48 STREET SE**

**HEARING NUMBER: 64844**

**ASSESSMENT: \$2,360,000.00**

This complaint was heard on 7 day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Troy Howell, Assessment Advisory Group Inc. – Representing Riverton Construction Limited.*

Appeared on behalf of the Respondent:

- *Ian McDermott – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

**Property Description:**

The subject property is a 5.29 acre site in the South Foothills Industrial area, situated at 8330 48 Street SE. Located on the site are two warehouses constructed in 1960 and 1990, with areas of 912 square feet and 10,586 square feet. The site has a Land Use zoning of Industrial – General.

From testimonial evidence by the Respondent, the property has been assessed as vacant land based upon comparable sales.

**Issue:**

1. Should a 15% allowance be applied to the subject for the location in South Foothills Industrial area?
2. Should the assessment be based upon the 2010 assessed value for the subject property?
3. Is the subject property equitably assessed in comparison to other properties in the South Foothills Industrial area?

**Complainant's Requested Value:** \$2,120,000.00

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

Complainant's Evidence:

The Complainant submitted copies of the 2011 Property Assessment Notice and the

Assessment Summary Report for the subject to indicate the 2010 assessment and the 2011 assessment and the criteria used in the determination of the assessment. (C1, Pg. 2-3) Also presented were location maps, aerial photographs indicating the subject's buildings and ground level photographs of the subject. (C1, Pg. 4-8)

The Complainant presented the Board with a document outlining the issues in the South Foothills area – The rezoning from heavy industrial use to general industrial, the lack of services to the sites in the South Foothills area, local improvement levies for the installation of services and the lack of sales for the Complainant to present a comparison with properties in the Foothills Industrial area. (C1, Pg. 9)

The Complainant submitted a copy of the South Foothills Owners Association general meeting minutes as evidence. (C1, Pg. 10-11) Outlined for the Board's attention was item 3 of the minutes –

“Report on Property Taxes for 2011 – Greg and Bud have been negotiating property tax assessment decreases. The City now recognizes that there should be compensation for the cost of local improvements in South Foothills. The City uses a secret formula to calculate industrial tax assessments to which they have applied a 15% deduction to properties in South Foothills. To determine your 2011 assessment please phone 403-268-2888 and provide your address and tax roll number. If you are not satisfied with the assessment contact Ian McDermott for an explanation. If not resolved you can file an appeal when the assessments are sent out in the first week of January 2011.”

The Complainant submitted eight comparable properties from the South Foothills area, providing copies of the 2011 Assessment Summary Report and 2010 Property Assessment Notice for each property. (C1, Pg.12-27) The Complainant shows, in a box on each Assessment Summary report, the percentage change in the assessment from 2010 to 2011. All eight properties show varying percentages of decrease in assessment.

The final submission was a “Valuation for 8330 48 Street SE” which shows the assessed values and rate per square foot for 2010 and 2011 and the 2011 requested value. (C1.Pg. 28) The Requested Value has an asterisk to link it to the following statement –

“Based on agreement with the City of Calgary that property assessment for the south Foothills area was to be decreased by 15% from the 2010 Assessment.”

#### Respondent's Evidence:

The Respondent took the position the Complainant had not satisfied the ‘Burden of Proof or Onus of the Parties’ as discussed in the document presented to the Board. (R1, Pg. 9) The Respondent contended the Complainant had not provided the required ‘substantive evidence’ to justify a change to the assessment through market value evidence or equity evidence.

The Respondent chose not to present to the Board any market evidence or comparable properties in support of the assessment. Rather the Respondent presented position documents on “Change in Assessed Value from Year to Year” and the ‘Bramalea and Bentall Decision Overview’ – copies of the two Decisions were included in the Respondent's submission.

The Respondent testified the valuation model employed to calculate the assessment for the

properties located in South Foothills area has a negative adjustment in the calculation to recognize the lack of services. This adjustment is in response to the Assessment Review Board decisions of 2010 for the lack of services. The Respondent has submitted a report on the South Foothills Adjustment showing the decisions, the reductions and the median value of the reductions. (R1, Pg. 16-25)

### **Findings of the Board**

#### **Complainant's Submission:**

The Board finds the Complainant's evidence to lack support or validation for the requested adjustment. The request for a 15% allowance for the lack of services appears to the Board to stem from the minutes of the Owner's Association. The Board, when reading the minutes, finds the representatives for the owners stating the City for 2011 recognizes the difficulties in South Foothills area and is applying an allowance. The Board quoted – "The City now recognizes that there should be compensation for the cost of local improvements in South Foothills" and "The City ... have applied a 15% deduction to properties in South Foothills." It appears to the Board the Complainant has misinterpreted the minutes or is attempting to obtain a further -15% allowance which is not supported through any evidence. The Board finds the subject properties have been granted a -15% allowance for 2011 and the request for -15% by the Complainant is denied.

The Board finds the eight comparable properties provided by the Complainant, while showing a percentage change year-over-year, do not support a change to the assessment. The Board finds the comparable properties, while located in South Foothills Area, differ by quality, age, size and sub-property use. The Complainant has failed to show a relationship between the subject and the comparable properties, other than the assessments have changed between 2010 and 2011. The Board finds no support for an equity argument on the assessment of the subject property.

The Board finds the request to use the 2010 assessment as the basis for the 2011 assessed values is without merit. The claim "there is an agreement with the City of Calgary" has not been supported by any documentation between the parties. The minutes of the South Foothills Owners Association does reference the City of Calgary applying a 15% deduction for 2011, but there is no mention as to the use of the 2010 assessments to calculate the 2011 assessments.

The Board finds the suggested proposal questionable as it clearly fails to comply with the Municipal Government Act (MGA), which stipulated the preparation of an annual assessment for all properties as of July 1 of the year prior to the assessment year. While an assessment value may, in a stable market, be unchanged from one year to the next, the City of Calgary does not have the authority to use a prior year's assessment for the current year.

In order for the Board to reduce the assessment the Complainant must provide market evidence to support a reduction. As no evidence has been produced by the Complainant, the Board denies the request to use the 2010 assessment values for the determination of the 2011 assessment.

Respondent's Submission:

The Respondent, through testimony and submitted evidence, has satisfied the Board the -15% allowance for the lack of services has been applied to the subject property and to like properties located in the South Foothills Industrial area.

**Board's Decision:**

The Board finds the Complainant has presented insufficient evidence to support the requested assessment changes.

The Board confirms the assessment at \$2,360,000.00

DATED AT THE CITY OF CALGARY THIS 24 DAY OF October 2011.



Philip Colgate  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

*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	Warehouse	Warehouse-Single Tenant	Cost/Sales Approach	-Land Value -Equity Comparables -Depreciation

## **LEGISLATIVE REQUIREMENTS**

### **MUNICIPAL GOVERNMENT ACT**

#### **Chapter M-26**

1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

#### **Division 1 Preparation of Assessments**

##### **Preparing annual assessments**

**285** Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

**289(2)** Each assessment must reflect (a)the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

#### **ALBERTA REGULATION 220/2004 Municipal Government Act MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) “assessment year” means the year prior to the taxation year;

#### **Part 1 Standards of Assessment Mass appraisal**

**2** An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

##### **Valuation date**

**3** Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.