

**CALGARY
COMPOSITE 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:

Knockninny Rock Inc., as represented by Philip Dack, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

M.P. Grace, MEMBER

D. Pollard, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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:	069008001
LOCATION ADDRESS:	1036 10 Av S.E. Calgary, AB
HEARING NUMBER:	61881
ASSESSMENT:	\$2,610,000

This complaint was heard on the 30th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- P. Dack
- J. Kerr & O. Kerr, Owners
- L. Simpson, Simpson Roberts

Appeared on behalf of the Respondent:

- C. Yee, City of Calgary

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

At the beginning of the hearing the Presiding Officer read into the record the following statement: *I know Mr. Dack from consulting work he did for the Town of Canmore when I represented development interests in that community. We don't have, and didn't have, any client-consultant relationship. We have no financial or personal relationship. I have no legal or financial interest in the property under complaint. In my opinion there is no conflict of interest if I participate in this hearing. Having said that: is there any objection to any member of the Board hearing the complaint and voting on it?* Neither the Complainant nor the Respondent objected to the composition of the panel.

Property Description:

The property under complaint is land and improvements, specifically: a vacant, three-storey hotel known as the National Hotel, built in 1907, as well as an ancillary barn-type structure, located in the Inglewood neighbourhood, which are situated on a 0.81 acre parcel (35,347 sq.ft.) and which is designated as falling within a Direct Control District within the City's land use bylaw. It attracts a 5% upward adjustment because of corner influences. The Hotel and land was designated as a Provincial Historic Resource in 2002.

Issues:

Has the property been fairly and equitably assessed having regard to its heritage designation and the complexity and costs related to its restoration and restricted uses?

Complainant's Requested Value: The assessment requested on the Complaint Form was \$2,380,000. This was revised in the Complainant's Disclosure to \$1,412,099.

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

The Complainant and his representatives provided extensive detail on the property including: neighbourhood history; the value of the site to the community; the details of the property; its designation as a provincial historic resource; the restrictions on its use, maintenance and restoration, as well as the costs related thereto. The Board noted that the historic designation

applies not only to the National Hotel but also to the land, the unsubdivided parcel, on which the buildings sit. The Complainant submitted that the current land use district requires that the main floor be used for retail only and that the second and third floors be used only for residential purposes. The Complainant has a temporary permit, approved by the Subdivision and Development Appeal Board, for 25 parking stalls and is seeking a change in land use classification to permit a mixed retail/office building.

The Complainant's requested assessment is based on partitioning the uses on the parcel and reducing the blended assessment rate of \$73.84 per sq.ft. by amounts ranging from 25 to 75 per cent depending on the degree of constraint exhibited by the heritage designation, land use restrictions, contamination, high water table issues and related costs.

The Assessment Summary Report (Report) provided by the Respondent does not indicate the valuation approach; it says that it is "unavailable". It states that the property type is land and improvement although the Respondent submitted that it was assessed as vacant land. The Report indicated that the sub-property use was Retail-with Major Office Use but the use of the property permitted by the City at the relevant valuation dates is retail at grade and residential above. The Report shows the subject as a B+ class building based on an external-only inspection. The Complainant disagreed, submitting that only part of the exterior has been restored, including a roof; the interior is incomplete; and, while there is new insulation, there are no operational services and no floor on the second and third floors.

The Respondent argued that the Complainant's issues and concerns with the building are not relevant to the assessment in that the property has been assessed as vacant land and has been equitably assessed in comparison with four comparable properties provided by the Complainant as well as five equity comparables provided by himself. The difference in the conclusions between the Parties is connected to negative adjustments of between 25 per cent and 50 per cent applied for influences such as transmission lines, shape and restricted access. The Respondent noted that the base rate applied to all these properties, including the subject, is \$90 per sq.ft. on the first 20,000 sq.ft. and \$45 per sq.ft. on the balance. None of the comparables has an historic resources designation.

The Respondent presented evidence that the Complainant had purchased the property less than four months prior to the valuation date of July 1, 2010 for \$3,200,000. This March 2010 sale is documented with Albertadatasearch and RealNet reports and a post sale City request for information on the sale.

The Board agreed to some extent with the Complainant's position that the value of the property would be affected by the provincial historic resource designation and the constraints that presents. However, the Board is bound by the Act and its related Regulation *Matters Relating to Assessment and Taxation Regulation, AR 220/2004* (M.R.A.T.). In the former, specifically s.293(1), the assessor is required to be fair and equitable and to follow the Regulations as to valuation and other standards as well as the procedures set out therein. M.R.A.T., s.2, further specifies that the assessment is "*to be based on market value*" (emphasis added) using mass appraisal. M.R.A.T., s.3 further requires that the assessment must estimate the property's value as of July 1 of the assessment year: in this case, July 1, 2010.

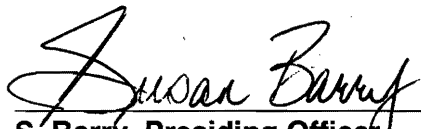
In coming to a determination of whether the assessed value represents a fair and equitable market value for the property, and having regard to M.R.A.T., s.2(c) for "typical market conditions for properties similar" to the subject, the Board cannot ignore the March 2010 sale to

the current owner of the property in March of 2010. The Complainant is a person who, by his own admission, is knowledgeable of and experienced in, the acquisition and restoration of this kind of property. The Board concluded that the March 2010 sale represents the best estimate of market value of the property in accordance with the Act and Regulations.

Board's Decision:

The 2011 Assessment is confirmed at \$2,610,000.

DATED AT THE CITY OF CALGARY THIS 27th DAY OF SEPTEMBER 2011.


S. Barry, Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's 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.*