

**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:

***Dura-lite Heat Transfer Products Ltd. (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Patrick, PRESIDING OFFICER
I. Fraser, MEMBER
D. Cochrane, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	112002803
LOCATION ADDRESS:	7041 Farrell RD SE
FILE NUMBER:	68317
ASSESSMENT:	\$803,000

This complaint was heard on 22nd day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- M. Robinson
- J. Weiber

Appeared on behalf of the Respondent:

- G. Bell

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

[1] There were no jurisdictional or procedural matters raised during the hearing.

Property Description:

[2] The subject property is a vacant parcel consisting of 1.53 acres located at 7041 Farrell Road SE which is the SE Fairview Industrial district.. The property use is industrial and the land use is designated as DC/1-G. The subject became vacant as a result of an extensive fire in 2001 which resulted in contamination of the soil by a product of the subject facility. Remediation began following the fire.

Issues:

[3] Is the remediation ongoing as such that the subject is entitled to an adjustment of up to 30% reduction by reason of the existing contamination.

Complainant's Requested Value: \$562,000

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

[4] Complainant's Position. The Complainant submitted copies of analytical results for both soil and groundwater contamination of the subject that were dated in June 2006 and labelled as a phase 2 report which resulted in the application of the negative environmental influence of up to 30% through the 2011 assessment as evidenced by the copy of the 2011 Property Assessment Notice. The base rate of \$525,000 resulted in an assessment of the 1.53 acres of \$803,250 less the 30% adjustment resulting in an net assessment of \$556,500. The Complainant submits that the contamination continues to exist and be treated by the engineering firm engaged in the production of the 2006 report that is in evidence and submitted a string of emails between the Complainant,s corporate representatives and the agent's representative indicating that nothing has changed since last year. The Complainant also submitted photographs of the subject site taken by the agent in September 2012 which indicate

the presence of some surface piping and perimeter fencing.

[5] Respondent's Position. The Respondent submitted that it had not received any current information that the contamination continued such that an application of the environmental influence could be applied in whole or in part to the subject assessment. The most recent engineering data is the material prepared in 2006 and there has been no further engineering reports presented to support the application of the influence to any degree. The email exchange does not have attached to it any engineering or Alberta Environment status reports such that the Respondent can rely upon.

Board's Decision:

[6] The assessment is confirmed.

[7] Reasons: The Board finds that there is insufficient evidence that contamination continues at the subject site. No evidence of continuing expenditure for such remediation was presented nor were any copies of periodic reports by the SNC Lavalin Group in evidence that would indicate that as at the assessment date or as at the condition of the property date for the current assessment the remediation continues. The photographic evidence is not sufficient to indicate that a remediation is active at the site. The claim for such influence adjustment must be supported by evidence that is persuasive to the Board and it was not present at the hearing. As such the Board cannot apply the requested percentage reduction.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF NOVEMBER 2012.



L. Patrick
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
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- | | |
|-------|------------------------|
| 1. C1 | Complainant Disclosure |
| 2. R2 | Respondent Disclosure |
| 3. C2 | Complainant Rebuttal |

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.*