

**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:

Quinco Financial Inc. (as represented by Canadian Valuation Group Ltd and Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***T. Golden, PRESIDING OFFICER
R. Kodak, MEMBER
D. Steele, 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: 067068205

LOCATION ADDRESS: 1001 7 Av SW

HEARING NUMBER: 64118

ASSESSMENT: \$2,340,000.00

This complaint was heard on 07 day of October, 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:

- *D. Sheridan*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

At the outset of the hearing the Respondent stated that the Complainant's request of the Board was contrary to section 285 of the Municipal Government Act (Act). This section requires an assessment be prepared for each property in the Municipality. In addition, the term "property" is defined in part as "a parcel" in the Act section 284(1)(r). In the Respondent's opinion the request before the Board is to reduce the parcel size for the purpose of the assessment. Assessing something less than the entire parcel is contrary to the Act.

The Complainant suggested that his case should be heard as the request could be viewed as a 12% reduction as opposed to a 12% reduction in parcel size as suggested.

The Board decided to hear the merits of the case. It is the opinion of the Board that it was necessary to hear the evidence in order to determine if indeed the Complainant has met the onus requirement.

Upon hearing the merits presented by the Complainant the Board is satisfied that onus has been met and that the Act is not being contravened in the issue before the Board.

Property Description:

The subject property is a vacant parcel 13,017 square feet (sq. ft.) in size and operated as a parking lot in the westerly portion of the downtown of the City. The land is located on the Light Rail Transit (LRT) line that runs along 8 th Ave. giving only pedestrian access on the northerly frontage. 9 th St. is a one way street proceeding south and bordering the east part of the lot. The assessment is prepared using the direct sales approach with the DT2W base rate of \$180.00. Further influence adjustments are made including a negative 15% for the LRT. The rates and adjustments are not in question.

Issues:

- 1) Should the assessment on the subject be reduced 12% to recognize a provision in the Land Use Bylaw requiring the dedication of a setback?

Complainant's Requested Value: \$2,060,000.00

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

- 1) The assessment should not be reduced 12%.

The Complainant firstly discussed the restricted access to the property brought about because of the LRT and the one way Street on the east boundary of the parcel. Next the Complainant discussed the main issue of the land use bylaw. The land use designation on the subject land is 99d2008 a direct control district. One of the standards of the district is a 2.1 meter set back on both frontages as well as a three meter corner cut. It is estimated that the amount of the setback is 12% of the lot area. At the time of development on the vacant lot the owner will have to dedicate the setback area to the City. The conclusion of the Complainant is that the dedication will affect the market value of the parcel as the 12% area will have no value and the assessment should be reduced by that amount.

The Respondent stated that most properties in the City were subject to setback requirements and it was expected when properties are purchased. In terms of access to the site the Respondent presented to the Board that all properties along the LRT line had similar access issues. The City recognizes the impact of the LRT and applies a 15% negative adjustment to all the properties adjacent to the line.

Although the Complainant discussed the problems of access there is nothing in evidence or testimony that suggests any reduction should be applied for reason of restricted access.

In the first instance there was no market evidence to suggest a bylaw setback impacts the market value in this location. We note the same standards apply to the parcels to the west on this block. Indeed the market may account for setback requirements in various districts as suggested by the Respondent.

Neither party was aware of the actual mechanics of the dedication as the wording of the bylaw was unclear. The Bylaw states "*The owner will be requested to dedicate the setback at the time of application for a development application*". It appears rather than a dedication the bylaw may imply a negotiation occurs at that time. It was not proven that the owner lost all the value of the setback and dedication area. The full site is in use at this time and there is insufficient evidence to adjust the assessment.

Board's Decision:

The assessment is confirmed at \$2,340,000.00

DATED AT THE CITY OF CALGARY THIS 14 DAY OF November 2011.



Presiding Officer

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

NO.	ITEM
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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other	Parking	Sales	Land value

