

**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:**

***G. & O. Esposito, COMPLAINANT***

**and**

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

**before:**

***J. Fleming, PRESIDING OFFICER***

***D. Morice, MEMBER***

***S. Rourke, 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: 083114405**

**LOCATION ADDRESS: 2711 38 St. SW**

**HEARING NUMBER: 61950**

**ASSESSMENT: \$767,500**

This complaint was heard on 6th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *G. Esposito, J. Esposito*

Appeared on behalf of the Respondent:

- *C. Fox*

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

There were no procedural or jurisdictional issues raised.

**Property Description:**

The property is a 6 unit low-rise apartment building built in 1958. It contains two 1 Bedroom, and four 2 Bedroom Units and was built in 1958. It is located in Market Zone 4 in the Glenbrook Community. The Land Use designation was not noted by either party, and the property was assessed using the Income Approach to Value (IAV)

**Issues:**

Is the property valuation being adequately adjusted for the commercial influences?

**Complainant's Requested Value:**

\$388,500

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

The Assessment for the property adequately recognizes the commercial influences.

**Board's Decision:**

The complaint is denied and the assessment is confirmed at \$767,500.

**Reasons:**

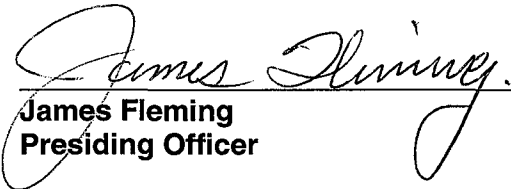
The Complainant's property is located across the street from a shopping centre. They represented that they have owned the property for a number of years, and have never had any issues until recently when a bottle depot moved into the shopping centre bay across from their property. The bottle depot is noisy, and stores and loads its product at the rear of their bay, which because it is across the street from the Esposito property, has caused a jump in vacancy and turnover for the Esposito's. Compounding these issues is the fact that the depot has expanded over the years thereby increasing the noise and general unsightliness facing the Esposito property. The Complainant advised that they have complained often to the City, but nothing happens. They say that the turnover and vacancy warrants a 50% reduction to their assessment.

The Respondent understands the issues caused by the bottle depot, but indicates that the City has granted a 5% Commercial Influence Adjustment to the Esposito's property (which is normally only granted to adjacent properties), and that is the maximum that they can do. Through questioning, it emerged that the 5% adjustment is likely a city-wide adjustment and the 5% number applies regardless of the level of nuisance or impact created by the associated commercial property. It also emerged that the Esposito property is the only one on the block receiving any adjustment.

The CARB considered the evidence. It is clear that the Esposito's are frustrated with how to deal effectively with the nuisance caused by the Bottle Depot. Unfortunately they did not provide any detailed evidence showing the impact on the value of the property. They did provide oral evidence as to their rental rates, some of which were below the "typical" rates the Respondent used in preparing the assessment, but when the CARB calculated the value loss from the rents below typical, it roughly equated to the value of the 5% Commercial Influence Adjustment. They also provided pictures showing the volume of storage etc. facing their property, but once again, there was no evidence to prove the impact on value.

The CARB concludes that there is insufficient evidence to disturb the assessment, and advises the Complainants that this is not the proper forum to address their issues. The assessment is confirmed as noted above.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF OCTOBER 2011.

  
James Fleming  
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.*