

**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:

***Heritage Station Car Wash Inc.
(as represented by Assessment Advisory Group Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***I. Zacharopoulos, PRESIDING OFFICER
J. Rankin, MEMBER
R. Roy, MEMBER***

[1] 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: 124193905

LOCATION ADDRESS: 8500 HORTON RD SW

HEARING NUMBER: 63483

ASSESSMENT: \$1,280,000

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on October 14th, 2011 at the office of the Assessment Review Board located at 3rd floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

[3] Appeared on behalf of the Complainant:

- *Mr. T. Howell* *Assessment Advisory Group Inc.*

[4] Appeared on behalf of the Respondent:

- *Mr. R. Farkas* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] There were no jurisdictional or procedural issues before the Board.

PROPERTY DESCRIPTION:

[6] The subject property is identified as a car wash situated at the northeast corner of the Horton Road and Hull Avenue SW intersection. The record shows the parcel to be 0.66 acres and improved with an 5,102 square foot (sf) development constructed circa 1990. The assessment is as per the Cost Approach to Value. The improvement is valued at \$124,286 as per the Marshall & Swift valuation model and the land at \$1,163,076 (assessed at \$65/sf for the first 20,000sf and \$28/sf for the remainder; less 25% for shape).

REGARDING BREVITY:

[7] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount".

[9] The Board finds the Complainant has presented the following issues for deliberation:

1. **Does the Complainant's equity analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] At the time of the hearing the Complainant requested an assessment revision to

\$616,538, revised from \$586,027 as per Doc. C-1, pg 18 and \$800,000 as per the Assessment Review Board Complaint form.

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] Along with the evidence the parties presented at the hearing the Board referenced the Municipal Government Act (MGA) and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010. The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment before us to be incorrect and if the market value determination as of July 1, 2010 should be revised.

[13] With regard to the issue identified above the Board's findings are as follows:

1. Does the Complainant's equity analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?

[14] The Complainant's request is based on a revision of the assessed land value; the valuation of the improvements is not contested.

[15] The Complainant's position is based on an equity analysis which reflects on 1 purported comparable, that being a car wash located at 9516 Horton Road SW.

[16] The Respondent submits that the equity reference is inappropriate as the properties are differently zoned; the subject being C-COR3 while the purported comparable is I-G.

[17] The Board finds the Complainant's analysis is presented under C-1, pg 18. The Complainant accepts the building valuation of the subject property as representative of the purported comparable (though the areas and year of construction are shown to differ). A residual land rate of \$17/sf is calculated, applied to the subject lands to arrive at a revised land value of \$616,538 which is then added to the current assessed building assessment.

[18] The Board finds the Complainant's comparison to be reasonable based on property use but unconvincing in terms of valuation principles. Its analysis shows the properties are differently (though closely) located, of different areas (both in land and improvement), and of different year of construction. None of these factors appear to be considered in the analysis, nor the different zoning, nor the ownership of the subject lands (which as per R-1, pg 15 are leased from the City of Calgary).

[19] In summary the Board finds the Complainant's equity analysis does not produce an appropriate assessment indicator for the subject property as of July 1, 2010.

[20] The Complainant has also offered the sale of the purported comparable property as of April 2010. The Board finds this is described as a business transaction and the indicated price breakdown (\$432/sf of building area) is an inappropriate market indicator and unsupportive of the Complainant's request.

BOARD'S DECISION:

[21] The assessment is confirmed at \$1,280,000.

DATED AT THE CITY OF CALGARY THIS 1st DAY OF November 2011.



J. Zacharopoulos
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. Doc. C-1	Complainant's Disclosure
2. Doc. R-1	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.*