

**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:

Imperial Oil Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

E. Reuther, MEMBER

A. Wong, 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:	010049500
LOCATION ADDRESS:	102 – 64 Avenue N.E.
HEARING NUMBER:	62796
ASSESSMENT:	\$2,130,000

This complaint was heard on 12th 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:

- *Jim McMillan*

Appeared on behalf of the Respondent:

- *Scott Powell*

Procedural or Jurisdictional Matters:

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board and constituted to hear the matter. No jurisdictional or procedural matters were raised at the onset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is located at 102 – 64 Avenue N.E., in the Huntington Hills District. The area is a mix of commercial and residential uses. The subject property is a vacant lot of 46,071 square feet (ft²) located at the corner of Centre Street and 64th Avenue NE. It was formerly a gas station property, but has since been remediated and was being actively marketed as of the date of valuation (July 1, 2010). The property is fully serviced, level and at grade with the surrounding properties. It has access/egress off Centre Street and 65th Avenue.

The subject property is assessed using the Sales Comparison Approach.

Issues:

1. What is the appropriate market value of the subject property for assessment purposes?

Complainant's Requested Value:

\$1,600,000	Complaint Form
\$1,350,000	Revised at hearing.

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

The two parties agreed on all facts related to the subject property except for its market value for assessment purposes, and by extension the equity of that assessed value.

1. What is the appropriate market value of the subject for assessment purposes?

The Complainant stated that an appraisal was obtained with an effective date of March 12, 2010, that concluded that the fair market value of the subject property was \$1,600,000. This appraised value was then used to list the subject property with Cushman & Wakefield LePage Inc. on February 20, 2011. An offer of \$1,350,000 was received in April 2011 and subsequently accepted by the vendor. The full appraisal report was not presented as evidence. Four comparable sales apparently used in the appraisal report were presented to support the Complainant's contention that the market value of the subject was \$35 per square foot, not the \$46.00 per square foot used by the City in its assessment. Furthermore, the Complainant indicated that the subsequent sale price further supports the lower market value.

The Complainant stated in evidence that the sale was scheduled to close on September 19, 2011. The transfer of the property had not yet occurred, apparently due to delays in the corporate processes of the vendor and purchaser. No listing contract and no documents showing that such an offer was accepted were presented.

The Respondent provided a copy of the sales brochure for this property taken from the Cushman & Wakefield LePage Inc. website, which indicated that the asking price for the subject was \$3,200,000. The Respondent then presented evidence showing errors in the information presented on the four comparable properties in the Complainant's evidence, as well as why those sales were not comparable or did not trade at arms-length, in the opinion of the Respondent. The Respondent did not provide any evidence to support their assessed value of \$1,130,000, stating that the Complainant had not shown that the assessed value was incorrect.

Board's Decision:

The Complainant did not provide a copy of the March 20, 2010 appraisal report nor was the Complainant able to address or speak to the details of that appraisal. Only four comparable sales apparently used in that appraisal report were provided and again, the Complainant could not provide much background on any of the sales. The listing and sale is post-facto. Furthermore, the Complainant's statement that the subject was listed at \$1,600,000 (the apparent appraised value) is not consistent with the listing brochure presented in the Respondent's evidence (showing an asking price of \$3,200,000). No evidence was presented to show that in fact the property was sold and at a price of \$1,350,000.

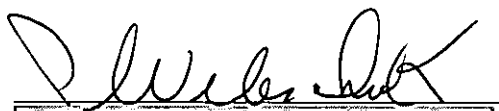
The Respondent raised a number of concerns related to the four comparable sales presented by the Complainant, which the Complainant could not address.

The Board concludes that the evidence presented by the Complainant is insufficient to demonstrate that the assessed value is incorrect. Without the full appraisal report before the Board, there is not enough evidence to properly consider the apparent conclusion that the subject property was valued at \$1,600,000. A summary of four comparable sales from that appraisal report is not sufficient evidence. The Board notes that while the sale of the subject is post-facto, no evidence was presented to demonstrate if that sale had actually occurred and verifying the sale price. For these reasons, the Board confirms the assessment.

Board's Decision:

The Board confirms the assessed value of \$2,130,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF October 2011.


Ivan Weleschuk
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.*