

**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:**

***Pacific Petroleums Ltd., COMPLAINANT***

**and**

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

**before:**

***I. Weleschuk, PRESIDING OFFICER***

***E. Ruether, 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:

<b>ROLL NUMBER:</b>	<b>073213803</b>
<b>LOCATION ADDRESS:</b>	<b>5300 – 17 Avenue SE</b>
<b>HEARING NUMBER:</b>	<b>60991</b>
<b>ASSESSMENT:</b>	<b>\$977,000</b>

This complaint was heard on 12<sup>th</sup> 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:

- *Devin Wegner*
- *Lovella Sangdaan*

Appeared on behalf of the Respondent:

- *Kelly Gardiner*

**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 5300 – 17 Avenue S.E., in the Forest Lawn District. The area is a mix of commercial and residential uses, with 17<sup>th</sup> Avenue being predominantly commercial. The subject property is a vacant lot of 14,316 square feet (ft<sup>2</sup>) located at the corner of 52<sup>nd</sup> Street and 17 Avenue SE. It was formerly a gas station property. The property is fully serviced, level and at grade with the surrounding properties. It has access/egress off both 52<sup>nd</sup> Street and 17<sup>th</sup> Avenue either directly or as part of the larger corner commercial strip development. It is zoned C-COR2.

The subject property is assessed using the Sales Comparison Approach at a unit rate of \$68.25/ft<sup>2</sup> with a total assessed value of \$977,000.

**Issues:**

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

**Complainant's Requested Value:**                      \$715,800

**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 submitted a copy of an appraisal report prepared by Finnigan & Associates Ltd. which concluded that the fair market value of the subject was \$716,000 ( $\$50.00/\text{ft}^2 \times 14,316$  square feet = \$715,800 rounded to \$716,000) effective March 23, 2010. This appraisal report used both the Sales Comparison (Direct Comparison) and Direct Capitalization Approaches, with the \$716,000 conclusion taken from the Sales Comparison Approach.

The Respondent stated that the assessment was done on a base rate of \$65.00 per square foot, plus adjustments. The \$65 per square foot rate is the rate applied to all vacant land zoned C-COR 1, 2 or 3, on the first 20,000 square feet of lot size (page 18, Exhibit R1). In this case the subject property had a corner adjustment applied, increasing the base rate by 5% to the assessed rate of \$68.25 per square foot. The Respondent addressed the six comparable sales used in the appraisal report presented by the Complainant and discussed why the sales were not considered comparable. The Respondent also provided evidence to show that Comparable Sale #6 was a non-arms-length sale.

Both parties agreed that there were essentially no good, recent sales along 17 Avenue SE on which to determine the value of the subject. The Complainant presented an Multiple Listing Service (MLS) data sheet showing that a property at 4504A 17 Avenue SE (page 12, Exhibit C1) sold on May 6, 2010 for \$954,000 (or \$48.34 per square foot for the 19,602 ft<sup>2</sup> property). The Complainant stated that he (Mr. Wegner) spoke to the vendor and agent for the purchaser and was told that environmental issues did not impact the sale price. The Respondent presented a "geotechnical and environmental investigation" (pages 45 to 92, Exhibit R1) dated June 2008 (with work done in 2007 according to the engineer's stamps) in evidence apparently taken off Alberta Environment's website that indicated that this site was contaminated. Other than presenting the documents, the Respondent did not discuss the type or degree of contamination or whether the site had been remediated in whole or in part in the interim. The Respondent indicated that this sale (less than 20,000 square feet and a corner lot) supported their assessed rate applied to the subject. When the sale price is adjusted using the standard adjustments applied by the City of 30% for contamination, the indicated value is \$63.27 per square foot.

**Board's Decision:**

The appraisal report presented by the Complainant was considered by the Board. Unfortunately, the appraiser who did the work was not made available to discuss the comparable sales used and how the adjustment were made to come to the concluded value of \$50 per square foot. The Board notes that the comparable sales ranged in value from \$35.28 to \$120.51 per square foot, but no discussion was provided as to what adjustment were made or how value was concluded at \$50 per square foot.

The Board notes that both parties agreed that there were virtually no good sales along or proximal to 17<sup>th</sup> Avenue SE to indicate a value. The sale of 4504 17<sup>th</sup> Avenue is the only recent sale. The parties presented conflicting evidence regarding the status of contamination on the property and whether it did influence the sale price. Given this conflicting evidence, the Board is not able to consider this one sale.

The Board concludes that the evidence presented by the Complainant was insufficient to demonstrate that the assessed value was incorrect.

**2. Is the subject assessment equitable?**

The Complainant presented ten equity comparables (page 13, Exhibit C1 with supporting data following) consisting of almost all these properties located along 17<sup>th</sup> Avenue SE, all with C-COR2 zoning and ranging in size from 11,689 to 17,534 square feet (subject is 14,316 square feet). All ten of these equity comparables were properties with an improvement. Six of the equity comparables were assessed at a value of about \$65 per square foot. One equity comparable was assessed at \$68.24. The other three were assessed between \$68.24 to \$71.98 per square foot. The Complainant stated that these improved properties were assessed at rates similar to the vacant subject, and a number were assessed at rates less than the subject vacant property. He questioned how an improved property could be assessed at a rate higher than a vacant property.

The Respondent indicated that the City calculates both a land only value and an income value per square foot value, and then used the higher of the two values as the assessed value. The Respondent demonstrated this (page 35, Exhibit R1) using the ten equity comparables presented by the Complainant. Five of the comparables were assessed at the \$65 per square foot rate, one was assessed at the \$68.25 per square foot rate to recognize the corner influence based on the Sales Comparison Approach. One of the corner influenced properties (4601 17 Avenue SE) was initially assessed using the Sales Comparison Approach, but later reassessed using the Income Approach. The three equity comparables that were assessed higher than \$68.25 per square foot were assessed using the Income Approach. The six equity comparables assessed on a land only per square foot basis (Sales Comparison Approach) were all assessed using the same base rate and influence adjustments.

**Board's Decision**

The Board accepts the Respondent's explanation of the assessments on a per square foot basis. This explains the ten equity comparables presented by the Complainant. Based on this evidence, the Board concludes that the assessment of the subject is equitable, since it is done using the same base rate and adjustments as all other properties in the area where the land only per square foot approach is used.

**Board's Decision:**

The Board confirms the assessed value of \$977,000.

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:**

<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.*