

**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:

Canada Safeway Ltd., (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***C. McEwen, PRESIDING OFFICER
S. Rourke, MEMBER
P. Pask, 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: 200613917

LOCATION ADDRESS: 600 4915 130 AV SE

HEARING NUMBER: 63979

ASSESSMENT: \$2,170,000

This complaint was heard on 26th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- B. Neeson

Appeared on behalf of the Respondent:

- P. Sembrat
- R. Amoroso

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

The Board noted that the hearing file did not contain the Respondent's submission package. The Respondent replied that the city had missed the regulated date for evidence disclosure and, therefore, would present their case through questions to the Complainant regarding the Complainant's evidence and through the presentation and discussion of non-evidentiary documents found in the public domain.

The Complainant objected and requested that the Respondent not be allowed to present any information that had not been disclosed under Section 8 of Matters Relating to Assessment Complaints Regulation (M.R.A.C.). Further, the Complainant suggested that the matter before the Board should be treated in a similar fashion to an earlier hearing that had been dismissed because the Complainant had failed to disclose within the mandated timeline.

The Board pointed out that the dismissal of the complaint would result in a confirmation, a result probably not intended by the Complainant. In addition, the Board would decide the matter based upon the evidence before it. The Board also reminded the Complainant that under the basic principles of Natural Justice, the Respondent must be provided the opportunity to respond to the Complainant's evidence.

In summary, the Board directed the Complainant to present his evidence. In addition, the Board confirmed the Respondent's right to question the Complainant's evidence upon completion. The Board also allowed the Respondent to present non-evidentiary documents, available in the public domain and germane to the issues before the Board.

The matter of the acceptance of the Respondent's non-evidentiary documents was again raised by the Complainant once the Respondent began their presentation. The Respondent's documents included a significant number of Board and Court decisions, Orders in Council, miscellaneous legal documents, the Assessment Audit and Equalized Assessment Manual published by Alberta Municipal Affairs (AMA), the 2010 Alberta Assessment Quality Minister's Guidelines and the AMA Detailed Assessment Audit Manual.

The Board reviewed the documents to confirm that each of them was available in the public domain. Having so confirmed, the Board suggested to the parties that a postponement might be in order, given the volume of material provided by the Respondent, to allow the Complainant adequate time to respond properly to the material.

The Complainant declined the Board's offer to postpone the hearing stating that there would be

very few questions directed to the Respondent as there was no evidence before the Board to question.

With these matters decided, the merit hearing continued.

Property Description:

The subject property is a Canada Safeway gas bar, located within the South Trail Crossing power centre in the McKenzie Towne district of SE Calgary. The subject is assessed using the Cost Approach to Value. The land (1.063 acres) is assessed at \$1,832,016 and the subject improvement, a free standing kiosk of < 1,000 square feet, is assessed at \$342,329 using Marshall and Swift.

Issues:

Is the subject property assessed higher than market value and is the subject assessment, therefore, inequitable to comparable properties? Specifically;

Should the subject property be assessed using the Income Approach to Value?

Complainant's Requested Value:

\$600,000

Board's Findings and Reasons in Respect of Each Matter or Issue:

The Board finds that the city's Cost Approach to Value provides a reasonable assessment of the subject property. The subject assessment is confirmed for the following reasons:

- The Complainant challenged the Respondent's Cost Approach to Value arguing that the Income Approach to Value provides a subject assessment that is both equitable and more representative of market value. The Complainant did not challenge the actual input values of the Respondent's cost model and the Board, therefore, accepts the assessed inputs as reasonable. There is no evidence before the Board to suggest that either the subject land or improvement input values are incorrect.
- The Board finds the subject to be an unencumbered property, under a separate roll number, that can be offered for sale on the open market without undue affect on contiguous properties.
- The Respondent's land value input is \$1,832,016.
- The Board finds the Complainant's requested value of \$600,000 to be unreasonable given the unchallenged land value attributed to the subject property.

Board's Decision:

The assessment is confirmed at \$2,170,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF November 2011.

C. McEwen

C. McEwen
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent's Material (non-evidentiary)

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Specialty Property	Cost/Sales Approach	Land & Improvement Comparables