

**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(4), Revised Statutes of Alberta 2000 (the *Act*).

**between:**

***Edward B. Farah, COMPLAINANT,  
as represented by Altus Group***

**and**

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

**before:**

***T. Helgeson, PRESIDING OFFICER  
Y. Nesry, MEMBER  
E. Reuther, 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: 112108402**

**LOCATION ADDRESS: 7638 Farrell Road SE**

**HEARING NUMBER: 63111**

**ASSESSMENT: \$391,000**

This complaint was heard on Tuesday, the 8<sup>th</sup> of November, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *A. Izard*

Appeared on behalf of the Respondent:

- *R. Farkas*

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

No procedural or jurisdictional matters were raised.

**Property Description:**

The subject property is the former site of a DOMO gas station. It is an irregularly-shaped parcel of 7,643 sq. ft. at the intersection of Fairmount Drive SE and Farrell Road, immediately adjacent a retail strip mall known as Astral Centre. The subject property is zoned C-N2. Both the subject property and Astral Centre are owned by the Complainant. There are no restrictive covenants between the two properties.

**Regarding Brevity**

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 in this matter will reflect the evidence that was presented and examined by the parties before the Board at the time of the hearing.

**Issues:**

1. Does the subject property provide required parking for the Astral Centre?
2. Does the assessment sufficiently recognize contamination, shape, and other influences affecting the subject parcel?
3. If the answer to issue one is "yes," or the answer to issue two is "no," what should be the assessed value of the subject property?

**Complainant's Requested Value:** \$750.00, or alternatively, \$97,750.

**Summary of the Complainant's Submission:**

The assessment is in excess of the market value of the subject property, and when the assessments of comparable property are considered, is neither fair nor equitable. Appropriate adjustments to the base rate have not been applied, or, if applied, are inadequate when compared to similar properties. The only adjustments given the subject for influence are "shape" and "corner lot," for a total of 30 percent. All service station sites are subject to "venting." If an appropriate environmental influence adjustment for contamination were applied, the assessed value would be \$97,750.

Furthermore, the history of the use of the property has not been considered. The subject property also provides ingress and egress for Astral Centre. You can't build on a site that provides ingress and egress. We have included 39 comparable properties that receive parking assessments of \$750.00. Only two of these properties are subject to restrictive covenants.

**Summary of the Respondent's Position:**

One of two conditions must be met before the \$750.00 parking assessment value will be applied. Firstly, parking value will be applied to a parcel with surface parking that satisfies the parking requirements of another, usually contiguous, parcel, in situations where the parcels are linked by caveats registered on their respective titles. Secondly, parking value will be applied to a parcel that provides parking required pursuant to a building permit for another parcel that is not large enough to accommodate the parking required by the permit. The subject property meets neither of these conditions. Finally, it should be noted that the gas bar operated for quite some time without the need to provide parking for Astral Centre.

The Complainant has provided no evidence of contamination on the subject property. To support an environmental adjustment, there must be an "Environmental II" report at the very least. The subject parcel is not a residual parcel, i.e., a small parcel left over from development. Instead, the subject parcel was deliberately subdivided from the parcel on which the Astra Centre is situated. Influence factors applied to the subject are for corner lot, plus 5 percent, and for shape factor, minus 25 percent.

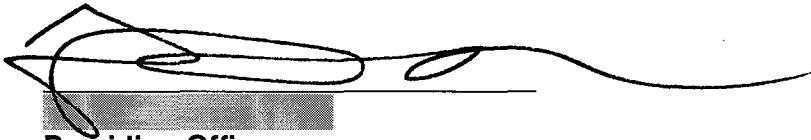
**Board's Decision in Respect of Each Matter or Issue:**

With respect to the first issue, there was no substantive evidence that the subject property is used for required parking, or any parking for that matter. Concerning the second issue, the Respondent has recognized shape factor and corner lot influence, and the Complainant's evidence failed to show why the amounts of these influence factors were insufficient. The only other influence adjustment mentioned by the Complainant was that for environmental contamination, and there was no substantive evidence that the subject was contaminated. With respect to ingress and egress, the Board notes that the Astral Centre parcel has exposure to Fairmont Drive SE on the west, and Fyffe Road SE on the south, and there was nothing to show that ingress and egress could not be had from those thoroughfares. Finally, there appears to be nothing that would prevent the Complainant from ameliorating his concerns by consolidating the two parcels

**Board's Decision:**

The answer to issue one being "no," and the answer to issue two being "yes," the assessment is confirmed at \$391,000.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF November 2011.



**Presiding Officer**

**Exhibits:**

**C-1, Complainant's Evidence Submission**

**R-1, Respondent's Assessment Brief**

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<u>Appeal type</u>	<u>Property type</u>	<u>Property sub-type</u>	<u>Issue</u>	<u>Sub-issue</u>
CARB	Other Property Types	Vacant Land	Contamination	Land Value
*****				

*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.*