



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:

MARRI PROPERTIES LTD., COMPLAINANT
(as represented by Colliers International Realty Advisors Inc.)

and

The City Of Calgary, RESPONDENT

before:

BOARD CHAIR: P. COLGATE
BOARD MEMBER: B. BICKFORD
BOARD MEMBER: J. KERRISON

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 2013 Assessment Roll as follows:

ROLL NUMBER: 071100101

LOCATION ADDRESS: 415 MONUMENT PLACE SE

FILE NUMBER: 70295

ASSESSMENT: \$3,530,000.00

This complaint was heard on 22nd day of August 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 10.

Appeared on behalf of the Complainant:

- *Troy Howell, Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *George Foty, City of Calgary*

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

Preliminary Matter:

[2] At the Commencement of the hearing the parties raised no objection to the composition of the Board. The Board proceeded with the merit hearing.

Property Description:

[3] The subject property contains a multi-bay warehouse (IN0701) and an industrial out building, both constructed in 1966. The structures, rated as 'C-' quality, are located at 415 Monument Place SE in the Meridian Industrial Area. The structures, situated on a 2.17-acre parcel, have a combined assessed area of 15,724 square feet, distributed to the main warehouse at 14,667 square feet assessed at a rate of \$239.75 per square foot and the industrial outbuilding at 1,057 square feet assessed at a rate of \$10.00 per square foot. The assessment is based upon the Sales Comparison Approach. The property has a site coverage of 9.18% and an interior finish of 50%. An extra land adjustment has been calculated into the assessment for 1.42 acres.

Issue:

[4] The Complainant stated there was one issue in the complaint:
The topography of the site does not allow full use of the property.

Complainant's Requested Value: \$3,180,000.00

Board's Decision:

[5] Based on the Board's decisions for the issue stated, the Board found sufficient evidence to support the changes requested by the Complainant.

[6] The Board revised the assessment to **\$3,180,000.00**

Legislative Authority, Requirements and Considerations:

[7] In the interest 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.

[8] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Valuation Reports.

Position of the Parties**Issue: Assessment Rate****Complainant's Position:**

[9] The Complainant argued the subject property should be assessed with an addition allowance of -10% due to the topography problem present at the rear and side of the property. The request was based upon the decision CARB 1040/2012-P, which applied a -10% adjustment to the assessment. The Complainant requested a continuation of this allowance. (C1, Pg. 25-30)

[10] The Complainant submitted photographs of the subject property to show the significant drop in elevation along the rear and the side of the property. The Complainant stated the property drops off to the elevation of the train tracks behind the subject property.

[11] The Complainant submitted three profiles, prepared through Google earth, which showed the change in elevation experienced by the property. The change in elevation would appear to be approximately 40 feet. (C1, Pg. 21-23)

[12] The Complainant submitted a further Google earth aerial photograph, on which had been marked the area of the topographically challenge land. The area was established to be 6,984.19 square feet of the total site area or 7.38% of the property area. (C1, Pg. 24)

[13] In rebuttal to the Respondent's submission, the Complainant argued adjustments for topography were site specific, determined on a case by case basis. The Complainant argued the City of Calgary produces a list of industrial land influence adjustments from which the assessor can make the necessary adjustments.

Respondent's Position:

[14] The Respondent, in rebuttal to the Complainant submission provided the Assessment Explanation Supplement documents for two properties adjacent to the subject property – 416 and 419 Monument Place SE. The Respondent argued that neither of those properties had been given a topography adjustment. (R1, Pg. 14-15)

[15] The Respondent submitted a spreadsheet of four comparable properties, two with noted "grade differential" for which no adjustment was made and two with comments of "abutting grade drop-off" and "next to railway" (R1, Pg. 17)

[16] The Respondent provided aerial photographs and topographic maps for the properties at 5420 53 Avenue SE, 4550 35 Street SE and 7491 110 Avenue SE. (R1, Pg. 18-32)

[17] The Respondent argued the property at 5420 53 Avenue SE also had a topographical change towards the corner of the site but no adjustment had been made to the assessed value. This was supported by the aerial photography which showed a strip of land along the lot line not being occupied by vehicles of the business. The Respondent submitted an aerial photograph on which the area deemed "unusable area" was highlighted and the area calculated at 1,011.15 square meters. (R1, Pg. 23-24)

[18] For the property at 4550 35 Street SE, aerial photographs and topographical maps were presented. The Respondent argued that based upon the evidence the property experienced grade differential, which the City of Calgary made no adjustment. (R1, Pg.27-29)

[19] The property at 7491 110 Avenue SE was submitted by the Respondent as a property which abutted a grade down to a train line and on which no adjustment had been applied. (R1, Pg.30-32)

[20] It was the Respondent's argument that, as these comparables did not receive a topographical adjustment, then no adjustment was warranted to the subject property.

Board's Reasons for Decision:

[21] The Board in its deliberation carefully reviewed the evidence presented by the Complainant and the Respondent.

[22] The Board found the photographs submitted by the Complainant provided the best visual evidence as to the severity of the grade along the rear of the subject parcel. The photograph showing the slope in relationship to the adjacent parcel clearly showed the amount of elevation drop and the necessary costs in making the area usable. The Board noted the construction of a retaining wall on the adjacent site to enable the utilized of an area similarly affected by topography. (C1, Pg. 14)

[23] The Board accepted the unchallenged area which the Complainant put forward as the area requiring a topography adjustment – 6,984.19 square feet.

[24] The Board found the Respondent's argument that as the adjacent properties at 416 and 419 Monument Place SE did not receive a topography adjustment then the subject should not receive an adjustment was not supported by any evidence – aerial photographs or topographical maps. The lack of an adjustment on the adjacent properties does not support the argument that the subject is not influenced by topography or deserve an adjustment.

[25] Reviewing the Respondent's comparable at 5420 53 Avenue SE, the Board found a number of flaws in the presentation. When questioned by the Board the Respondent was unable to provide the values for the contour intervals identified on the map. This problem was also found for the two other comparables provided by the Respondent. The Respondent further identified an area of the site which was described as "unusable area" and presented a sizing of that component of the site. However, it became known that a portion of the unusable land was actually occupied, and generating revenue, by a Telus cell tower.

[26] The Board found neither the comparable at 4550 36 Street SE nor 7491 110 Avenue SE supported the position of the Respondent as both properties showed no clear topographical problems.

[27] The Board also takes note of the City of Calgary determination of the assessment value. The Respondent testified there was an additional assessment built into the model for the 1.42 acres of extra land, approximately 65.44% of the entire parcel. The Board took that to mean the unusable area under complaint, the 6,984.19 square feet, is being assessed as extra land under the calculation of the Model.

[28] The Board found the Respondent did not present a satisfactory case to refuse the request for a topographical adjustment. From the information presented the Board found sufficient evidence to support a change to the current assessment to the level requested by the Complainant.

[29] The Board found the application of a topographic adjustment should be correctly applied on a site by site application, and comparison to other properties does not support a denial of adjustment for a specific lot.

[30] It was the decision of the Board that a reasonable buyer of the property would take the unusable portion of the site into consideration when making an offer to purchase. The Board found the adjustment would be applied to the total assessment of the property, both land and building.

[31] For the reasons cited, the Decision of the Board was to revise the assessment at **\$3,180,000.00**

DATED AT THE CITY OF CALGARY THIS 20th DAY OF September 2013.



PHILIP COLGATE

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Submission
2. R1	Respondent Submission

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	Warehouse	Warehouse – Multi Tenant	Sales Approach	Land & Improvement Comparables

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004**Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

Part 1**Standards of Assessment****Mass appraisal**

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.