



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:

712954 Alberta Ltd. (as represented by C. Bygrove - President), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER

A. Wong, BOARD MEMBER

R. Cochrane, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	119005502
LOCATION ADDRESS:	8616 – 44 ST SE
FILE NUMBER:	70726
ASSESSMENT:	\$7,550,000

This complaint was heard on 3rd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *No one appeared*

Appeared on behalf of the Respondent:

- *T. Nguyen – Assessor – City of Calgary*

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

[2] At nine AM, the appointed time of commencement of the hearing, the Board noted that the Complainant had not arrived. The Board opted to wait for at least 15 minutes before commencing the hearing to allow the Complainant additional time to arrive in the event that he might be in traffic and unavoidably delayed. Ultimately the Complainant did not appear for the hearing and it commenced at 9:16 AM.

Property Description:

[3] The Board is unable to describe the subject because there was no descriptive information regarding the property from either party.

Issues:

[4] There were no issues heard.

Complainant's Requested Value:

[5] On the Complaint Form the Complainant requested that the assessment be reduced to \$5,850,000.

Board's Decision:

[6] The Board confirmed the assessment at \$7,550,000.

Legislative Authority, Requirements, and Considerations:

[7] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[8] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[9] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

Positions of the Parties**(a) Complainant's Position:**

[10] While the Complainant provided some very brief general observations about the subject on the Complainant Form, he subsequently did not follow Legislated due process, and failed to submit and exchange information with the Assessor in support of his initial complaint.

[11] Given the forgoing in [10] above, and pursuant to applicable elements of sections 8 and 9 of Alberta Regulation AR 310/2009, being "Matters Relating to Assessment Complaints Regulation", both the Complainant and the Board are required by the provincial "Regulation" to undertake the following:

**Division 2
Hearing before Composite
Assessment Review Board**

Disclosure of evidence

8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Failure to disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

(b) Respondent's Position:

[12] The Respondent provided his Brief R-1 for the record and advised as follows;

1. The Notice of Hearing was sent on 2013 April 04.
2. The Notice of Hearing instructs the Complainant to file their evidence with the Assessment Review Board and The City of Calgary – Assessment business unit on or before the due date as indicated.
3. The due date for filing evidence by the Complainant, as noted on the Notice of Hearing was 2013 May 22.
4. No evidence was received by the City of Calgary – Assessment business unit from the Complainant by the due date.

[13] The Respondent suggested that the assessment be confirmed.

Board's Reasons for Decision:

[14] The Board finds that the Complainant was not in attendance at this hearing.

[15] The Board finds that the Complainant did not comply with section 8 of Alberta Regulation AR 310/2009, being "Matters Relating to Assessment Complaints Regulation", in that he did not exchange information with the Respondent pursuant to section 8.

[16] The Board finds that pursuant to section 9(2) of Alberta Regulation AR 310/2009, being "Matters Relating to Assessment Complaints Regulation", the Board must not hear any information that was not disclosed in accordance with section 8 of this Regulation.

[17] The Board finds that it received insufficient information from the Complainant to demonstrate that the assessment is either incorrect, inequitable or unfair. Therefore the Board has no alternative but to confirm the assessment of the subject property at \$7,550,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 2013.


K. D. Kelly
Presiding Officer

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
R-1	Respondent disclosure tendered for the record.
File Item	Complainant's Initial Complainant Form

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).*

(a) *the assessment review board, and*

(b) *any other persons as the judge directs.*

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	unknown	None heard	None heard