

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:

662342 Alberta Ltd. (as represented by Mr. Cole Bygrove), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Helgeson, PRESIDING OFFICER

R. Deschaine, BOARD MEMBER

A. Zindler, BOARD MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBERS: 124559865, 124559840, 124559907, 124559881, 124559824, 124559808, 124559782, 124559766, 124559741

LOCATION ADDRESSES, respectively: L 9827, K 9827, O 9827, M 9827, E 9827, D 9827, C 9827, B 9827, and A 9827 Horton Road SW

FILE NUMBERS, respectively: 70728, 70729, 70730, 70731, 70732, 70735, 70736, 70738, 70741

ASSESSMENTS, respectively: \$512,000, \$384,000, \$1,300,000, \$1,310,000, \$668,000, \$631,000, \$698,000, 701,000, \$699,500

This complaint was heard on the 26th day of June, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Mr. Cole Bygrove*

Appeared on behalf of the Respondent:

- *Mr. Eric Wu*

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

- [1] No procedural or jurisdictional matters were brought before the Board.

Property Descriptions:

[2] The subject properties are industrial condominium properties located in two single-storey buildings on a site lying between the Light Rail Transit right-of-way and Horton Road SW. Both buildings were constructed in 1973. The site is in the Central Region and is designated "C-COR2 f1.0h16" under the Land Use Bylaw.

[3] The assessable areas of the subject properties are described in square feet ("sq. ft."). The building on the east side of the site fronts on Horton Road and contains subject properties A 9827, B 9827, C 9827, D 9827 and E 9827 Horton Road SW. The respective assessable areas of these properties are 3,719 sq. ft., 4,294 sq. ft., 4,250 sq. ft., 3,245 sq. ft. and 4,999 sq. ft.

[4] The building on the west side of the site contains the rest of the subject properties, L 9827, K 9827, M 9827 and O 9827 Horton Road SW, with assessable areas of 2,874 sq. ft., 1,606 sq. ft., 6,264 sq. ft. and 6,238 sq. ft. respectively. Adjacent to the site on the north is 9815 Horton Road SW, and to the south of the site and adjacent to it is 570 Southland Drive SW.

Issue:

- [5] Have the subject properties been assessed at higher values than comparable properties?

Complainant's Requested Values:

- [6] L 9827 Horton Road SW [\$189,324.80], K 9827 Horton Road SW [\$189,324.80], O Horton Road SW [\$757,299.20], M 9827 Horton Road SW [\$757,299.20], E 9827 Horton Road SW [\$378,649.50], D 9827 Horton Road SW [\$378,649.50], C 9827 Horton Road SW [\$378, 649.50], B 9827 Horton Road SW [\$378,649.50], A 9827 Horton Road SW [\$378,649.50].

Positions of the Parties**Complainant's Position:**

[7] There are five bays in the building that fronts on Horton Road. The back-up plan at the time of purchase was to condominiumize the buildings so some units could be sold, but none were. The highest and best use for the subject properties is as land only for future transit-oriented development.

[8] The leases are triple-net, so the taxes are paid by the tenants but the tenants are getting hurt. The subject properties as a whole are over-taxed compared to the property next door, 9705 Horton Road SW. The condominium units will not sell. The demising wall that separated L 9827 and K 9827 Horton Road SW from M 9827 Horton Road SW is gone. Therefore L 9827 and K 9827 do not exist anymore. A suggested purchase price is 5.5 million dollars for all the subject properties.

Respondent's Position:

[9] Assessments for industrial warehouse property and industrial and commercial condominiums are based on the sales comparison approach due to the abundance of market sales. The complainant's comparables are large warehouses. For example, 9815 Horton Road SW is a single building, 17,125 sq. ft. in area. The building at 570 Southland Drive SW contains 5,200 sq. ft. of floor area. Unlike the Complainant's property, neither building has been condominiumized. 9705 Horton Road SW has three buildings, including a three-storey office building, therefore cannot be said to be comparable to the subject properties.

[10] Six time-adjusted industrial condominium sales in Calgary SE indicate an average sale price of \$239 per sq. ft. The average value of the subject properties is \$186 per sq. ft.. As for equity comparables, the assessments of industrial condominiums similar in size to the subject properties range from \$176 to \$336 per sq. ft. It is requested that the assessments be confirmed.

Board's Reasons for Decision:

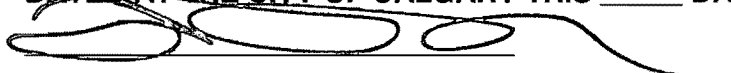
[11] In assessment and appraisal, the word "comparable" means "similar". The Board finds that the Complainant's comparable properties, 9815 Horton Road SW, 570 Southland Drive SW and 9705 Horton Road SW are not similar to the subject properties, hence not comparable. Neither 9815 Horton Road SW nor 570 Southland Drive SW have been condominiumized. Further, 9815 Horton Road SW, with 17,125 sq. ft of building area is much larger than any of the subject properties, therefore not comparable. Due to its size, 9815 Horton Road SW has been assessed at a lesser amount per sq. ft. than any of the subject properties, i.e., \$156.

[12] As for 570 Southland Drive SW with a floor area of 5,200 sq. ft., it is assessed at \$317 per sq. ft., an amount greater than any of the assessments of the subject properties on a per square foot basis, hence an amount that does not support a reduction in any of the assessments of the subject properties. As for 9705 Horton Road SW, that property contains three buildings, one of which is a three storey office building, hence it cannot be said to be comparable to the subject properties. In the result, there is insufficient evidence to support a reduction in the assessments of the subject property.

Board's Decision

[13] The assessments of the subject properties are confirmed.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.



Presiding Officer

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

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

Administrative

Warehouse, Warehouse/single/tenant, Sales Approach, Land & Improvement, Comparables

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.*