

## **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:

***HERITAGE STATION CAR WASH INC., COMPLAINANT***  
***(as represented by Assessment Advisory Group Inc.)***

and

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

before:

***BOARD CHAIR: P. COLGATE***  
***BOARD MEMBER: Y. NESRY***  
***BOARD MEMBER: D. MORICE***

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:** 124193905  
**LOCATION ADDRESS:** 8500 HORTON ROAD SW  
**FILE NUMBER:** 71935  
**ASSESSMENT:** \$1,370,000.00

This complaint was heard on 7th 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 2.

Appeared on behalf of the Complainant:

- *Doug Bowman, Assessment Advisory Group Inc.*

Appeared on behalf of the Respondent:

- *Jean-Sebastien Villeneuve-Cloutier, City of Calgary*
- *Cliff Yee, 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] No preliminary matter was raised by either party. Board proceeded to the merit hearing.

**Property Description:**

[3] The subject property contains a 1990, B Class automotive service structure, a car wash, at 8500 Horton Road SW in the community of Haysboro. The structure is situated on a 0.66 acre parcel. The property is assessed using the Cost Approach to Valuation, valuing the land and building separately.

**Issues:**

[4] The Complainant stated there were three issues in the complaint:

1. Exposure of the subject property from Macleod Trail South
2. Access to the subject property is restricted
3. Valuation of land component

**Complainant's Requested Value: \$1,000,000.00 (Revised at Hearing)**

**Board's Decision:**

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

[6] The Board confirms the assessment at **\$1,370,000.00**

**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 Income Approach Valuation Reports.

**Position of the Parties****Issue 1: Exposure to Macleod Trail.****Complainant's Position:**

[9] The Complainant argued the subject property, while assessed using the C-COR3 land rates, is "significantly disadvantaged when compared to other properties". The subject property does not have the same exposure as the properties fronting onto Macleod Trail South. (C1, Pg. 16)

[10] The Complainant submitted an elevation profile, from Google, showing a thirteen (13) meter difference in elevation, rising from Horton Road SW to Macleod Trail South. (C1, Pg. 12) Photographs submitted show the elevation change between Horton Road SW and Macleod Trail South. (C1, Pg. 9-10)

[11] The Complainant noted for the Board the sign on Macleod Trail South for the car wash. (C1, Pg. 7-9)

**Respondent's Position:**

[12] The Respondent agreed the subject property was at a lower elevation than Macleod Trail, however did not agree the property was adversely affected by the lack of exposure on MacLeod Trail South with the presence of the sign showing its location and access to the site via Hull Avenue SW. (R1, Pg. 22)

[13] The Respondent showed through photographs the property's exposure on Horton Road SW was not adversely affected.

**Board's Reasons for Decision:**

[14] The Board found the Complainant argument on the exposure had some merit, but the Complainant failed to provide market or equity comparables to support the requested adjustment to the value. The Board found that the claim of exposure does not equate to a value if no evidence of affect is provided.

[15] The Board found the Complainant lack of supporting evidence on exposure failed to justify the requested -15%.

## **Issue 2: Access to Subject Property.**

### **Complainant's Position:**

[16] The Complainant argued the location of the subject property suffered from restricted access. It was claimed that traffic from south bound Macleod Trail South had access using Hull Avenue SW, an "unobvious" approach. North bound traffic on Macleod Trail South would need to exit at Southland Drive SW and then take Horton Road SW north to the car wash.

### **Respondent's Position:**

[17] The Respondent submitted to the Board a number of aerial photographs to show the access to the property. Most significant is the access from Macleod Trail South for both north and south bound traffic on Hull Avenue SW which connects to Horton Road SW, immediately beside the subject property. It was argued the Hull Avenue, a light controlled intersection, solved the access problem for west bound Heritage Drive SW and north bound traffic on Macleod Trail South.

### **Board's Reasons for Decision:**

[18] The Board found the Complainant's argument with respect to access was not supported. The Complainant further agreed his presentation on access failed to recognize fully the significance of Hull Avenue SW access.

[19] The Board found the access argument was not supported by market evidence to show an impact on the value of the subject property.

[20] The Board found the issue failed due to lack of evidence.

## **Issue 3: Valuation of Property**

### **Complainant's Position:**

[21] The Complainant argued that when the first two issues are taken into consideration then an adjustment must be made to the value of the property. The Complainant requested an additional -15% be adjusted on the assessment in recognition of the exposure and access problems.

[22] In testimony, the Complainant submitted the calculation of the revised value. The value for the building was determined using the Marshall and Swift cost manual. The building value was submitted to be \$110,116.00

[23] The Land was calculated using the rates supplied by the City of Calgary:

- \$122.00 per square foot for the first 3,000 square feet
- \$65.00 per square foot for the next 3,001 to 20,000 square feet
- \$10.00 per square foot for the remainder

[24] The Complainant accepted the -25% adjustment applied for the shape of the property to reduce the land value.

[25] In the Complainant's verbal presentation of the revised values, the value of the land was calculated and then the total of -40% (-25% and -15%) for adjustments was deducted. The value of the building was added to obtain the total assessment, which was rounded to the requested \$1,000,000.00.

[26] The Complainant did not present the calculation of the building value.

**Respondent's Position:**

[27] The Respondent reviewed the cost method for the determination of the assessed value, with the calculation of the land value detailed in the submission at a value of \$1,681,730.00. A shape adjustment of -25% is applied to reduce the land value to \$1,261,298.00. (R1, Pg. 7)

[28] The Respondent noted the calculation of the land value recognized a portion of the parcel (5,770 square feet) is located in a C-R zoning and valued at a rate of \$35.00 per square foot.

[29] The Marshall and Swift costing of the building was not provided, but merely entered in the City of Calgary's "Vacant Land and Cost Approach" form at a value of \$110,716.00. (R1, Pg. 6)

**Board's Reasons for Decision:**


[30] The Board found the Complainant request for a -15% adjustment failed as it was dependent upon the Board accepting the issues on exposure and access being a detriment to the subject property.

[31] The Board found the Complainant failed to provide market or equity comparables to support the requested adjustment based on exposure and access. When questioned by the Board as to the source of the -15%, the Complainant stated the requested adjustment was a "fair and reasonable" adjustment.

[32] The Board noted the secondary issue raised with respect to the percentage increase in the year over year assessment. The mandate of the Board is to adjudicate on current year assessment and how it was determined, not to compare two separate assessments derived by different models, which may apply different weight to the variables in the calculation. The MGB in decision No. DL 013/05 stated that an annual change in assessment "does not mean the property is necessarily incorrectly assessed". (R1, Pg. 24)

[33] For the reasons cited, the Decision of the Board was to confirm the assessment at \$1,370,000.00

DATED AT THE CITY OF CALGARY THIS 15 DAY OF August 2013.



PHILIP COLGATE  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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	Other Property Types	Specialty Property – Car Wash	Cost Approach	Land Value

**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.