



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:

Indgion Holdings Ltd. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
J. Kerrison, BOARD MEMBER
D. Morice, 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:	072023005
LOCATION ADDRESS:	3820 17 Avenue SE
FILE NUMBER:	73299
ASSESSMENT:	\$1,140,000

This complaint was heard on 23th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212–31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *K. Fong*

Appeared on behalf of the Respondent:

- *C. Yee*

Procedural or Jurisdictional Matters:

- [1] The Board noted the file included a completed copy of the Assessment Review Board Complaint form and an Assessment Complaints Agent Authorization form.
- [2] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.
- [3] No preliminary issues were raised by either party.

Property Description:

- [4] The subject property is located on a corner lot at 3820 17 Avenue SE, in the Forest Lawn District. The lot is 14,153 square feet (SF) with a 900 SF improvement built in 1973. The property was formerly a Shell gas station and car wash. The building currently on the property was the cashier booth/convenience store that has been renovated and currently operates as a fast food restaurant (Shwarma Palace). The 2013 Assessment is \$1,140,000 as calculated using the Sales (land only) Approach.

Issues:

- [5] What is the correct assessment of value? The Complainant only disputed the following:
 1. Is the property contaminated? If so, should the City have applied the "environmental concerns" adjustment to the assessment calculation?.
 2. What is the market value of the subject property, using a Sales (bare land) Approach?

Complainant's Requested Value: \$680,000

Board's Decision:

- [6] The Board confirms the 2013 Assessment of \$1,140,000.

Legislative Authority:

- [7] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) of the Act defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

Issue 1: Should the "environmental concerns" adjustment be applied in calculating the assessment?**Complainant's Position:**

- [8] The Complainant stated that there is no evidence that the subject property is clean. Any potential purchaser has access to a long list of environmental reports related to the subject property on the Alberta Environment and Sustainable Resource Development (AESRD) website. Even if the property is not contaminated, the Complainant argued that a stigma continues to be associated with this property, which adversely affects the market value of the property. The Complainant argued that the environmental concerns adjustment of -30% (page 248, Exhibit C1) should be applied to the 2013 Assessment calculation.
- [9] The Complainant presented a copy of the AESRD website pages showing the list of documents filed on the subject property (page 20-22 and page 245, Exhibit C1). A number of documents in this list were copied and presented as evidence (page 23-243, Exhibit C1). The Complainant stated that he was not expert in contamination or remediation issues and therefore could not provide any interpretation or analysis of the reports and their conclusions. Nevertheless, there is no document that states that the site is clean. No remediation expert was presented to speak to these documents.
- [10] To demonstrate that contaminated properties sell for less, the Complainant presented a summary table of nine properties prepared by the City, titled "2013 Non-Residential Commercial Land C-COR Sales Analysis (page 247, Exhibit C1). The comparable sales located at 4505 17 Avenue SE and 102 64 Avenue NE both indicate that the properties had environmental concerns at the time of sale. The property at 102 64 Avenue NE sold for the lowest price (on a per square foot basis) and the property at 4504 17 Avenue SE

sold for the second lowest price per square foot in this list of nine properties.

Respondent's Position:

- [11] The Respondent stated that before the environment concerns adjustment is applied to an assessment calculation, the City requires a Phase 1 report indicating that a property is contaminated and a report that estimates the cost to cure the contamination. The City will adjust the assessed value by the estimated cost to cure the contamination, to a maximum of 30% of the assessed value. The City has not received either document from the assessed person, therefore did not apply the environmental concerns adjustment. These required documents are referred to in the 2013 Non-Residential Commercial Land Influences Adjustment table presented by the Complainant on page 248 of Exhibit C1.
- [12] The Respondent presented a copy of a letter from Shell Canada Products (the owner of the property at the time) to Alberta Environment dated December 8, 2004 with a copy of a letter from O'Connor Associates Environmental Inc. to Shell Canada Products also dated December 8, 2004 (page 81-106, Exhibit R1). This letter concludes "Based on the results of this remedial excavation and previous site investigations, no further remedial work is warranted for this property." (page 100, Exhibit R1)
- [13] The Respondent presented CARB Decision 2181/2011-P (page 108-113, Exhibit R1) and CARB Decision 1653/2012-P (page 114-118, Exhibit R1) which addressed this same issue in previous assessment complaints and noted that in both Decisions the Board did not agree that the site was contaminated.

Findings of the Board on this Issue:

- [14] The Board acknowledges that the City has a process, which includes an information component to support the application of the environmental concerns adjustment to a property assessment calculation. The assessed person has not provided this information to the City.
- [15] The Board is not expert in remediation matters. If a party is presenting detailed technical reports, an expert who is familiar with the reports and can speak to their contents would assist the Board. Neither party was able to enlighten the Board as to what any of the environmental documents meant, nor to indicate if the property was or was not contaminated.
- [16] The Board is not persuaded by the sales evidence presented by the Complainant related to the negative impact that environmental concerns have on the sale price of a property. The two sales with environmental concerns are also two of the larger properties in the table presented. Both parties agreed that parcel size influences the sale price per square foot. It is not correct to simply compare sale prices per square foot without first adjusting for parcel size. The argument that a stigma lingers with a property that once had an environmental concern was not supported by any evidence, therefore is merely

- [17] The Board does not find any evidence to support the position that the subject property is contaminated or that the 2013 assessment calculation should include the environmental concerns adjustment.

Issue 2: What is the market value of the subject property?

Complainant's Position:

- [18] The Complainant presented the 2013 Non-Residential Commercial Land Rates table (page 249, Exhibit C1) that sets out the rates for C-COR land, and the 2013 Non-Residential Commercial land C-COR Sale Analysis (page 247, Exhibit C1) that is the basis for the land rates table. The Complainant argued that the sale at 2020 34 Avenue SW is an infill residential property and is the sole basis for the \$122/SF rate applied to the <3,000 SF size strata. The Complainant then demonstrated that the eight remaining sales comparables did not support the size strata used by the City, nor the rates assigned to the size strata.
- [19] The Complainant argued that the average of the nine sales comparables supports a rate per square foot of \$65.00, which should then be applied to the entire site area. This results in an assessed value of \$919,945, to which the -30% environmental concerns adjustment is applied to arrive at the requested assessment of \$680,000 (page 289, Exhibit C1).

Respondent's Position:

- [20] The Respondent presented the same table of nine C-COR sales but included the sale price after adjustment for time and influences. This table (page 16, Exhibit R1) is the basis of the rates and size strata used by the City for its Sales (bare land) Approach. In developing the model, the size strata and prices were adjusted to achieve a model that had good predictive capabilities. The result of this analysis is the rates and size strata presented in the 2013 Commercial Land Values table (page 15, Exhibit R1).
- [21] The Respondent noted that the adjusted price per square foot in the table on page 16, Exhibit R1 or the bare land rates (page 15, Exhibit R1) do not include a corner influence. To reflect the value of the subject, a +5% corner lot adjustment needs to be applied to the assessment calculation, as shown on page 13, Exhibit R1.

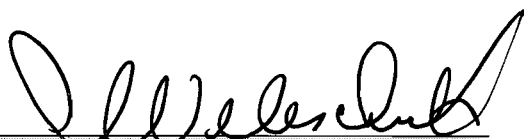
Findings of the Board on this Issue:

- [22] The Board notes that the simple average of the nine 2013 Non-Residential Commercial Land C-COR Sales (page 247, Exhibit C1) is \$73.68. The Board understands this simple average of the nine sales is the basis of the Complainant's requested rate of \$65.00/SF. The Board finds no evidence or support in this data or analysis for the requested rate of \$65.00/SF as the value of the subject parcel.

Board's Reasons for Its Decision

- [23] The Board concludes that the land value rate of \$65.00/SF requested by the Complainant is not supported by any of the evidence presented by the Complainant. The Board concludes that there is no evidence to indicate that the subject property is contaminated or that the environmental concerns adjustment of -30% should be applied to the assessment calculation. The Board confirms the 2013 Assessment of \$1,140,000.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF August 2013.



Ivan Weleschuk
Presiding Officer

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

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

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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Retail	Stand Alone	Contaminated?	Market value