

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:

MYLONAS ENTERPRISES LTD.

(as represented by AVISON YOUNG PROPERTY TAX SERVICES), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

E. K. Williams, PRESIDING OFFICER

I. Fraser, BOARD MEMBER

J. Kerrison, 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 2014 Assessment Roll as follows:

ROLL NUMBER: 069103307

LOCATION ADDRESS: 1139 9 AV SE

FILE NUMBER: 75228

ASSESSMENT: \$1,780,000 (\$131.25 per square foot)

This complaint was heard on 17th day of July, 2014 in Boardroom 6 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE Calgary, Alberta.

Appeared on behalf of the Complainant:

- J. Mayer Agent, Avison Young Property Tax Services

Appeared on behalf of the Respondent:

- R. Farkas Assessor, The City of Calgary

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

- [1] No Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

- [2] The subject property at 1139 9 AV SE is a 13,626 square foot (SF) (0.31 acres) parcel of land in the community of Inglewood, a DC land use designation, a Property Use: Commercial and Subproperty Use: CM0210.
- [3] The assessment was prepared on the Cost Approach with a corner lot influence adjustment of 5%

Issues:

- [4] The assessed value of the subject property is not reflective of market value.

Complainant's Requested Value: \$1,643,000 [\$120.60 square foot (psf)]

Board's Decision:

- [5] The assessment is confirmed as \$1,780,000 (\$131.25psf).

Legislative Authority, Requirements and Considerations:

- [6] The Act Section 248 Interpretation provisions for Parts 9 to 12 defines
- (1)(r) "property" means*
 - (i) a parcel of land*
 - (ii) an improvement, or*
 - (iii) a parcel of land and the improvements on it:*
- [7] The Act Section 293 Duties of Assessors requires that:
- (1) In preparing an assessment, the assessor must, in a fair and equitable manner,*
 - (a) apply the valuation and other standards set out in the regulations, and*
 - (b) follow the procedures set out in the regulation.*
- [8] The Act Section 467 Decisions of assessment review board requires that:
- An assessment review board must not alter any assessment that is fair and equitable taking into consideration*
- (a) The valuation and standards set out in the regulations,*
 - (b) the procedures set out in the regulations, and*
 - (c) the assessments of similar property or businesses in the same municipality*
- [9] *Matters Relating to Assessment and Taxation Regulation (MRAT) Part 1 Standards of Assessment Section 2 Mass Appraisal requires that:*
- 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.*
- and Section 4 Valuation standards for a parcel of land requires
- 4(1) The valuation standard for a parcel of land is*
 - (a) market value, or*
 - (b) if the parcel is used for farming operations, agricultural use value.*
 - (d) must reflect typical market conditions for properties similar to that property.*

Position of the Parties

[10] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests 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.

[11] The Complainant's evidence package included a Summary of Testimonial Evidence, the City of Calgary 2014 Property Assessment Detail Report, the 2014 Assessment Explanation Supplement Industrial & Commercial Vacant Land and Cost Approach, Comparable Market

Transactions for land sales as well as details from the City of Calgary related to land rates, land sales, influence adjustments and time adjustment.

[12] The Respondent's evidence package included a Summary of Testimonial Evidence, aerial photograph identifying the location of the subject property, a 2004 photograph of the exterior of the subject property, the 2014 Assessment Explanation Supplement Industrial Cost Approach, details from the City of Calgary related to 2014 Commercial Land Values, Industrial/Commercial, Vacant Land Adjustments, land rates, land sales, and influence adjustments and time adjustments, and Calgary Assessment Review Board decisions.

[13] Both parties placed technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of the document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[14] As noted above, the Respondent placed before this Board a number of Assessment Review Board decisions in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

Complainant's Position:

[15] The Complainant presents the details on two commercial land sales in the Inglewood district. The following table compares the subject and the sales comparables on 5 characteristics that affect value.

Municipal Address	Land Area SF	Land Use	Sale date (mm/yyyy)	SP psf*	TASP psf**	Comment
1526 9 AV SE	12,222	Direct Control	10/2012	\$114.55	\$120.88	Land located in mid-block
1339 9 AV SE	12,189	COR1	07/2012	\$120.60	\$128.40	Corner lot. Located 400 meters from subject
Subject						
1139 9 AV SE	13,626		Assessment		\$131.25	Corner lot

*The unadjusted Sale Price (SP).

** Time Adjusted Sale Price (TASP) at a rate of 0.614% per month

[16] The requirement for the application of a time adjustment when a sale is within a year of the effective date was raised by the Complainant. A paired sales analysis was prepared by the Complainant for 3 land sales. Details are presented on page 2 of Exhibit R1. One paired sales were on 9 AV SE in close proximity to the subject. Specifically the transactions for 1339 9 AV SE (July 2012) and 1526 9 AV SE (October 2012) which were 4 months apart.

[17] Based on the paired sales time adjustment analysis, paragraph [16], the Complainant concluded that time adjustment factor of 0.614% per month is not justified. Based on their conclusion that a time adjustment factor is not required the Complainant argued that the analysis focus on the unadjusted sale price.

[18] The Complainant considered the best comparable to be the 1339 9 AV SE which is a corner lot in close proximity to the subject and that the unadjusted sale price of \$120.60 psf is the best indicator of value and support the requested assessment.

Respondent's Position:

[19] Respondent reviewed the table titled 2014 Commercial Land Values (page 51 Exhibit R1) and details on the determination of the land influences (page 52 and 53 of Exhibit R1) which were used to determine the land value. In respect of the subject of time adjustments being applied to the Complainant's comparables the Respondent reviewed the particulars on pages 62 and 63 of Exhibit R1.

[20] The Land Sales table on page 59 of Exhibit R1 provided details on the sales used by the Respondent to determine the land rate for the different land zones. The subject property is in the AT1 Inglewood land zone which is assigned a \$125.00 for the first 20,000 SF of land and \$45.00 for the remainder. This land value for the AT1 zone was based on following sales:

Municipal Address	Land Area SF	Sale date (mm/yyyy)	Sale Price	TASP*	TASP psf*	Land Use & Influences
1526 9 AV SE	12,222	10/2012	\$1,400,000	\$1,477,364	\$120.88	Direct Control
1339 9 AV SE	12,189	07/2012	\$1,470,000	\$1,569,284	\$121.00	C-COR1 & Corner lot.

*The TASP based on the City of Calgary Assessment Department Time Adjustment monthly factor

[21] The subject assessment has been determined by applying a base rate of \$125.00 psf and an adjustment for a corner lot influence of plus 5% yielding an assessment of \$131.25 psf.

[22] The Respondent testified that the comparables in paragraph [20] are strong comparables to the subject property and that time adjustments are required.

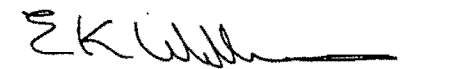
[23] In summary the analysis of the two sale comparables which are the same as the Complainant with the time adjustment applied support the assessment of the subject.

Board's Reasons for Decision:

[24] Both parties used the same 2 comparables. They differed on the application of a time adjustment factor to adjust the sale price to the July 1, 2013 date to determine the land value. Based on the evidence presented and the prevailing market practice to calculate and apply factors to calculate the TASP analysis of transactions the Board supports the use of the TASP in the analysis.

[25] Based on the evidence presented the Board confirms the assessment.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF SEPTEMBER 2014.



E. K. Williams

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.*

ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Land	Sales Approach	Comparables