

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:

363991 Alberta Limited
(as represented by Assessment Advisory Group Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER
A. Huskinson, BOARD MEMBER
J. Lam, BOARD MEMBER

This is a complaint to the Composite 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: 119003606

LOCATION ADDRESS: 9515 - 48 Street SE

FILE NUMBER: 75850

ASSESSMENT: \$4,910,000.

This complaint was heard on 18th day of August, 2014 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:

- S. Cobb (Agent - Assessment Advisory Group Inc.)

Appeared on behalf of the Respondent:

- D. Kozak (Assessor – City of Calgary)

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

[1] The Complainant indicated to the CARB that this case is similar in just about every way to more Hearings to be presented to this same panel of the CARB over the next day or so and asked that this case be treated as the 'master case' with all discussion and argument to be carried forward and applied to those ensuing case. The Respondent had no objection to this request and, accordingly the CARB will carry the discussion and argument of both parties forward and will apply same as deemed necessary in the ensuing Hearing(s).

Property Description:

[2] According to the Property Assessment Detail Report (Exhibit C-1, pg. 3) the subject property is a single tenanted warehouse property that was originally constructed in 1978 and which contains a total assessable area of 25,802 Sq. Ft. The property is located in the South Foothills industrial area of southeast Calgary.

Issues:

[3] The Complainant brought forward the following issue to be considered by the CARB:

- 1) The subject property is located within an area of Foothills Industrial Park that was, previously, only partially serviced with city utilities. The previously missing utility services have now been installed and the cost of same is spread among the various property owners by way of a Local Improvement Levy. In the past the city has granted a 15% reduction to the total assessed value of the property to account for any potential doubling of property tax. The Complainant maintains that this reduction has not been carried forward and applied to the assessment of the subject property and is requesting a 15% reduction to correct this situation.

Complainant's Requested Value: \$4,170,000.

Board's Decision:

[4] The Assessment is **Confirmed** at **\$4,910,000.**

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

[5] The Complainant contends that the assessment of the subject property, which is based upon fully serviced I-G designated industrial properties plus the Local Improvement Levy to account for the added servicing costs, is too high as it does not incorporate a 15% discount which was agreed to in previous years. As a result of the foregoing the subject property owner is being treated inequitably to I-G property owners that are located in the Foothills Industrial Park but not in the area affected by the Local Improvement Levy. The Complainant introduced (Exhibit C1 pg. 10) a chart which shows examples, including the subject property, of proximate properties illustrating that the assessment based property taxes of these property owners, inclusive of the Local Improvement levy less the "2014 Council Mandated Rebate" continues to total from approximately 30% to 50% higher than other properties. Additionally, the Complainant provided (Exhibit C1 pg. 30) a copy of the General Minutes from a meeting of the South Foothills Owners Association held on Nov. 25/10 which, at paragraph 3 states:

"... The City now recognises that there should be compensation for the cost of local improvements in South Foothills. The City uses a secret formula to calculate industrial assessments to which they have applied a 15% deduction to properties in South Foothills..."

[6] The Complainant also introduced (Exhibit C1 pgs. 34 – 37) a copy of a CARB decision from 2011 dealing with the same issue involving a South Foothills located property. In that Hearing it was the decision of the CARB to reduce the assessed value by the requested 15%.

Respondent's Position:

[7] The Respondent provided (Exhibit R1 pg. 10) a copy of the 2014 Assessment Explanation Supplement pertaining to the subject property and same clearly indicates, under the Heading Comments that "South Foothills reduction for local improvement issues has been applied". The Respondent indicated to the CARB that the reduction this year amounted to 10% as a 15% reduction would result in an assessed value that would be less than market value. Based upon this information the Respondent suggests that the Complainant does not have a case.

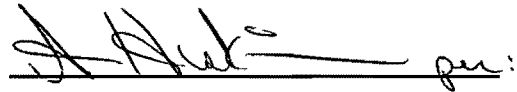
Board's Reasons for Decision:

[8] The CARB has no jurisdiction to deal with matters of property tax; however, the assessed values from which the property taxes are derived do indeed fall within the jurisdiction of this Board. The Complainant has raised a concern regarding the property taxes being paid by some Foothills Industrial Park property owners and has provided evidence, in the form of property tax notices, which does appear to support this claim. The Respondent provides evidence that indicates a reduction has in fact been applied to the assessed value of the subject property. The issue the CARB has is that the aforementioned reduction is unclear as to where it has been applied. The Respondent, when questioned on this matter, provided very little in the way of any helpful information.

[9] The CARB is of the judgment that the Complainant failed to provide convincing evidence to show that the assessed value of the subject property is, as he maintains, some 15% higher

than similar properties that are not located within the affected area as he did not provide any assessment information for any unaffected properties. As a result of the foregoing the CARB has no basis of comparison upon which to make a sound judgment. While the CARB is concerned that there may be some inequity we simply lacked the evidence that would prove same to be true.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF SEPTEMBER 2014.

 per:

C. J. Griffin

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.*

CARB Identifier Codes

Decision No. 75850P-2014			Roll No. 119003606	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Industrial	Single tenant warehouse	Market Value	Local Improvement Levy

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