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**COMPOSITE ASSESSMENT REVIEW BOARD DECISION**

**HEARING DATE: Nov 3 2011**

**PRESIDING OFFICER: R. IRWIN**

**PANEL MEMBER: S. BEGG**

**PANEL MEMBER: S.RAY**

**BOARD CLERK: J. KNIGHT**

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**BETWEEN:**

**Burnswest Corporation.  
Represented by: Altus Group  
Mr. D Genereux**

**Complainant**

**-And-**

**TOWN OF COCHRANE  
Represented by: Municipal Assessors,  
V. Cottreau & H. Kuntz**

**Respondent**

This is a complaint to the Town of Cochrane Assessment Review Board and heard by the Composite Assessment Review Board in respect of a property assessment prepared by the Assessor of the Town of Cochrane and entered in the 2011 Assessment Roll as follows:

Roll No	Address	2011 Assessment	Requested Assessment	Revised Requested Assessment
312500	300 Grande Blvd.	\$868,200	\$651,150	\$520,920

**Preliminary Matters**

A Preliminary Matters was brought forth by the Respondent. It was requested that the board dismiss the appeal as the Complainant did not provide a response to the Respondent's request for information.

### Respondent

The Respondent took the position that the appeal should be dismissed and the assessment confirmed as the Municipal Government Act section 295, which follows, had been breached.

#### *Duty to provide information*

*295(1) a person must provide, on request by an assessor, any information necessary for the assessor for the assessor to prepare an assessment or determine if a property is to be assessed.*

It was stated that the Complainant had not replied to the assessors request for the list prices of vacant lots for sale by the Complainant.

### Complainant

The Complainant replied that the assessor had requested list prices and that list prices were not usually a component necessary for an assessor to prepare an assessment and there was no duty to provide that information.

### **Preliminary Issue Decision**

The Board referred to the MGA Section 293: Duties of the Assessors which states

*"the assessor must take into consideration the assessments of similar property in the same municipality in which the property that is being assessed is located."*

The Board decided that the regulations would not be compromised if the assessor prepared the assessment without list prices of property for sale and directed the merit hearing to proceed.

### **Property Description**

The subject property of this appeal is a vacant 1.19 acre commercial development site, zoned C-SC, Shopping Centre District, located at 300 Grande Boulevard Cochrane Alberta. The property under appeal has a history of environmental and remediation issues resulting from contaminants being dumped on the lot, prior to the current owners acquiring the site.

### **ISSUES:**

#### **ISSUE 1: Assessed Value**

### Complainant

The Complainant's position is that the assessed value of the property is too high and should be reduced from \$868,200 to \$520,920. The Complainant noted that the property has had a reduction applied to previous assessments and that policy should continue. The subject property is still being monitored and a well on site is still collecting contaminants. It was stated that the property owners have not been advised by Alberta Environment that the

status of the property has changed and stressed that the property has an ongoing environmental stigma.

The Complainant believed that this stigma affected the desirability and the market value of the property. Evidence was presented highlighting a risk management plan prepared for the landowner that noted the responsibility the landowner would have to disclose the plan and the groundwater monitoring and reporting requirements to any potential buyer. The Plan also stated that The Town of Cochrane will be responsible to ensure all workers working on the infrastructure within the area are made aware of the presence of subsurface contamination and take necessary precautions. The Complainant asserted that this indicated the subject property was still considered environmentally challenged, it is different than average and that the Board allow this assessment amount appeal.

#### Respondent

The Respondent acknowledged that the lot was once contaminated and that in past assessments there was an adjustment.

The Respondent stated that Alberta Environment had determined that contamination no longer posed a risk to this site since it has been remediated and it can be sold and built on. The Assessor submitted that if contamination is an impediment to the value of the property, it is up to the appellant to provide evidence to the assessors

#### Findings

The Board finds that both parties acknowledge the property was once contaminated and were aware that in 2007 the landowners engaged consultants to prepare a risk management plan to deal with that issue. Both parties were aware of its contents and ongoing responsibilities.

The Board found that due to this environmental issue, the property under appeal has in previous property assessments, and by agreement with the Town of Cochrane had an adjustment applied to the tax assessment.

#### Decision

The Board allows the complaint and set the 2011 assessment for the property under appeal as follows:

**Roll #312500                      \$520,920.**

**Reasons:**

It was disclosed that both parties were aware that the subject property was still being monitored monthly and the removal of the accumulating contaminants was continuing as in previous years. The Board did not accept that the well known history and facts of environmental issues present in this appeal are normal or typical of the stratum.

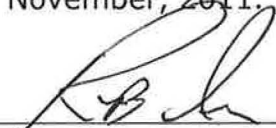
The Board considered comparability and found it difficult to consider the subject property comparable to other clean vacant lots without an adjustment.

The Board considered the Respondents claim that Alberta Environment had determined that contamination no longer poses a risk to this site but evidence was not presented to confirm the statement.

The Board was convinced by the Complainants presentation that the admitted contamination, the necessity and presence of a remediation plan and the disclosure issues and requirement to warn prospective buyers, could deter some buyers from purchasing the subject property.

The Board found that the past assessment reductions were strong evidence concluding that contamination affected value.

Dated at the town of Cochrane in the Province of Alberta this 29 day of November, 2011.



R. Irwin, Presiding Officer

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, R.S.A. 2000, c.M-26.