

**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-26.1, Section 460(4).

between:

Kamal Holdings & Ventures Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

J. Rankin, MEMBER

A. Zindler, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 068207901

LOCATION ADDRESS: 316 3 St. S.E.
Calgary, Alberta

HEARING NUMBER: 57123

ASSESSMENT: \$3,620,000

This complaint was heard on the 26th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- M. Maschmeyer, Venpro Consulting

Appeared on behalf of the Respondent:

- C. Keough, City of Calgary

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

There were no procedural or jurisdictional matters.

Property Description:

The subject parcel is 29,499 sq.ft. on which is situated a warehouse built in 1955 encompassing 16,362 sq.ft. and housing two commercial enterprises.

Issues:

1. Is the assessment too high having regard to the site characteristics?

Complainant's Requested Value: \$0

Board's Decision in Respect of Each Matter or Issue:

The Complainant noted that the site is unique being compromised by a number of factors beyond his control. It is the recipient of overland drainage from the City of Calgary's parking lot on the north, by the construction of the 4th Avenue flyover and as a result of works directed by the City of Calgary and the Calgary Municipal Land Corporation in raising the elevation of surrounding roads by between 4 and seven feet. Access and egress to the parcel has been eliminated or constrained on 3rd Street through the construction of a sidewalk elevated above a former parking area at the front of the building as well as the closure of 3rd Street at 4th Avenue. A number of parking stalls have been lost. Access to a loading dock is likewise restricted. Access to the rear of the buildings can only be obtained from 3rd Avenue across a parcel owned by the City of Calgary and currently used for parking. It is not clear to us that this constitutes legal access or what the continuing right to use this access might be. The site is, effectively, a fragmented or residual parcel of irregular shape. A DC land use classification and the influences of the Calgary Municipal Land Corporation have precluded a potentially lucrative lessee from locating within the premises. The City of Calgary intends to acquire an additional portion of the parcel for the 4th Avenue flyover expansion but no terms have been agreed and no time frame has been established. This widening will not only impact the parcel but, in all likelihood, the current building. Parking, drainage and land use issues have resulted in a building that is, or about to be, seventy-five per cent vacant.

The Respondent does not dispute these issues except to note that there are businesses other than the one identified by the Complainant that could locate in these premises. The Respondent further notes that the property is assessed as vacant land at its highest and best use using the mass appraisal process that has resulted in an assessment of \$145 per square foot for the East Village district and then reduced that calculation by 15% for shape-reduced functionality.

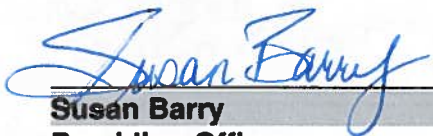
The Complainant offered no evidence of vacant land comparables or alternatives to the assessed per square foot value. Therefore, the Board accepts the base value of \$145 per sq.ft.

It is the Board's position however, that the site warrants further reductions as follows: 15% for residual parcel issues; 15% for the DC classification and use restrictions; and, 15% for drainage and access issues together. This results in a total reduction of 60 per cent due to site-specific influences. Not included in these calculations, however, are the costs that would have to be incurred to bring this property to a saleable commodity as vacant land. The Respondent notes that the highest and best use must accommodate uses that are legally permissible, physically possible and financially feasible. Having regard to the site characteristics on December 31, 2009, we are not convinced that the issues surrounding access, drainage and developability and the uncertainty surrounding road widening would generate the sales value that supports the market assessment provided by the Respondent. The Board would have considered a further reduction; however, the complainant brought forward no evidence to demonstrate what those costs could be and, accordingly, the Board has no basis on which to apply a further reduction.

Board's Decision:

Using the parcel size of 29,499 sq.ft., multiplied by the accepted market value of \$145 per square foot, and reducing the result by sixty per cent, the Board changes the truncated assessment to \$1,700,000.

DATED AT THE CITY OF CALGARY THIS 5th DAY OF August 2010.



Susan Barry
Presiding Officer

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.*