

**CITY OF CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

BETWEEN:

Barron Management Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

BEFORE:

**J. Krysa, PRESIDING OFFICER
I. Zacharopoulos, MEMBER
J. Massey, MEMBER**

A hearing was convened on August 17, 2010 in Boardroom 4 at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	098001803
LOCATION ADDRESS:	2820 54th Avenue SE
HEARING NUMBER:	57000
ASSESSMENT:	\$1,410,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 1.68 acre parcel of land, zoned I-G, and improved with a 9,600 sq.ft. single tenant industrial warehouse with 7% office finish, constructed in 1972, and an 1,800 sq.ft. metal clad industrial outbuilding constructed in 1975. The site coverage is 15.5%.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

During the course of the hearing, the Complainant raised the following jurisdictional matter:

"In consideration of all of the above, the Owner believes an assessed value of \$1 million (prior to the agreed upon 30% environmental reduction) is fair and appropriate, and that this value should remain in place (subject to general market fluctuations) until such time as Alberta Environment provides a remediation certificate for the property."

"I further request the Appeal Board to instruct the City to confirm in writing for future reference should new people represent either the property owner or the City." [C1 page 4]

Decision:

The Assessment Review Board derives its authority to make decisions under Part 11 of the Act. The Board's jurisdiction is limited to hearing and deciding complaints filed about specific matters shown on an assessment notice, and the Board's decisions are applicable only to the assessment or tax roll to which the assessment notice relates. The Board does not have jurisdiction to set specific assessment values in future years, nor to instruct the municipality to do so.

PART C: MATTERS / ISSUES

The Complainant raised the following matter in section 4 of the complaint form:

3. an assessment amount

The Complainant set out several reasons for complaint in Section 5 of the Complaint form, with a requested assessed value of \$1,000,000, however at the hearing the Complainant stated the following issues were in dispute:

Issue 1: The assessor's mass appraisal model does not take into consideration the unique characteristics of the subject; age, functional obsolescence, and limited demand.

Issue 2: The subject property was marketed for a period of 1 year without success, at a value below the assessed value

The Complainant advised the Board that environmental contamination due to chlorinated solvents surrounding the improvement is not an issue before the Board, as there is an agreement in place with the City of Calgary to provide a 30% reduction from the current market value, in recognition of this factor. (Estimated MV \$2,014,000 - 30% = \$1,410,000 Assessment)

The Complainant also submitted that a complaint has been filed annually for the past 5 years regarding the matter of environmental contamination, and requested that the Board set an assessment value at the lower end of a range of values put forward, as a punitive measure for (the City's) unreasonable behavior.

The Complainant requests the assessment be set at a value of \$700,000 (\$1,000,000 - 30%)

Issue 1: The assessor's mass appraisal model does not take into consideration the unique characteristics of the subject; age, functional obsolescence, and resultant limited demand.

The Complainant argued that the characteristics of the subject property have not been reflected in the predicted value; specifically the age of the property, and functional obsolescence attributable to low ceiling heights and minimal windows. The indicated market value of \$2,014,000, (prior to the 30% environmental contamination allowance) exceeds the value of the property established through the marketing process, addressed in detail in issue 2.

The Complainant further argued that the property was recently leased at a \$7.00 rent rate, which is below typical industrial market rents, but reflects the unique characteristics of the improvement.

The Respondent indicated that the subject property was valued in a mass appraisal, direct comparison approach, and provided eight sales comparables with time adjusted sale prices (TASP) ranging from \$87 to \$242 per sq.ft., in contrast to the subject's indicated market value of \$208 per sq.ft. The Respondent advised that although building "age" is an attribute considered in the valuation model, "wall height" is not independently considered, but rather, considered to be correlated to the age of a structure, in that older structures are assumed to have lower wall heights [R1 pg 23].

The Respondent also submitted a list of seven equity comparables ranging in value from \$171 to \$220 per sq.ft. to demonstrate that the subject property is assessed equitably [R1 pg 24].

Decision – Issue 1

The Board finds that the assessor's mass appraisal model does not take into consideration the unique characteristics of the subject, with respect to functional obsolescence due to wall height.

Although the age of an industrial warehouse is an attribute in the assessment valuation model, the wall or ceiling height attribute is not independently considered in the model. The Board rejects the assumption that all older warehouses have low wall / ceiling heights. Further, if the sales (observations) in the model included several older properties with typical warehouse wall / ceiling heights, the predicted values would not accurately reflect this attribute.

Issue 2: The subject property was marketed for a period of 1 year without success, at a value below the assessed value.

The Complainant submitted 1 page of an offer to purchase the property at \$1,700,000, and advised the Board that the offer was withdrawn after the extent of the contamination was disclosed. Also submitted, was a tenant abstract detailing the subsequent 5 year lease signed as a result of the inability to market the property. The Complainant argued that this evidence indicates a range of values for the property well below that of the current assessment, excluding the agreed to adjustment.

The Respondent argued that this property was not "singled out", but rather, common mass appraisal techniques were applied to predict the market value of the property. With respect to the current leasing activity, the Respondent argued that the \$7.00 rent rate is not reflective of typical market rents.

Decision – Issue 2

The Board finds that a market rent coefficient of \$7.00 represents the characteristics, and recognizes all of the inherent deficiencies in the property (including the contamination issue). At a 7% capitalization rate, a value approximating the Complainant's requested assessment of \$1,000,000 is evident.

The Complainant's attempt to market the subject property, and subsequent leasing activity demonstrates that the subject is not typical in the marketplace.


The Board finds that the Complainant's evidence of an offer to purchase was not persuasive, as only 1 page of a multi page document was provided to the Board. The Board did however find the Complainant's leasing activity evidence compelling, as it was agreed by both parties that the lease rate of \$7.00 for a 5 year lease is not reflective of the typical warehouse market.

The Board further noted that in order to arrive at the market value indicated in the current assessment, the property would require a rent rate approaching \$20.00 per sq.ft. based on current capitalization rates; and to arrive at the market value indicated in the current assessment based on the contract rent of \$7.00 per sq.ft., a capitalization rate of 4.3% would be required. Both of these market factors appear to be inappropriate for a 37 year old warehouse with a 14 foot wall height.

PART D: FINAL DECISION

The property assessment is revised from \$1,410,000 to \$1,000,000.

Dated at the City of Calgary in the Province of Alberta, this 24 day of September, 2010


J. Krysa
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:

NO.	ITEM
1.	Exhibit C1
2.	Exhibit R1

Complainant's Brief
Respondent's Brief

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
1. B. Ronellenfitch	Representative of the Complainant
2. A. Sherlock	Representative of the Complainant
3. K. Buckry	Representative of the Respondent

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.*