

**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(4).

between:

United Acquisition II Corp, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

F. Wesseling, PRESIDING OFFICER

I. Zacharopoulos, MEMBER

A. Wong, MEMBER

This is a complaint to the Calgary 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: 201436599

LOCATION ADDRESS: 18414 Spruce Meadows Way SW

HEARING NUMBER: 56762

ASSESSMENT: \$11,630,000.00

This complaint was heard on 29th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *G. Barron, United Communities*
- *S. McKenna, United Communities*
 - *R Hutchinson, Altus Group*

Appeared on behalf of the Respondent:

- *J. Lepine*
 - *T. Johnson*

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

N/A

Property Description:

Subject property is located immediately to the north of the Spruce Meadows Equestrian facility. The property is raw graded and is one of the final phases of the Silverado subdivision. The parcel contains 2 distinct components, firstly is approximately 15 acres which is recognized as environmentally sensitive lands while the balance (27.8 acres) will be developed into residential single family lots. The environmentally sensitive lands are part of the wetlands to the south which have been dedicated through ER to the City. Currently the land contains no improvements and is classified Direct Control (DC) under the City of Calgary land Use Bylaw

Issues:

The complainant raised the following matters in Section 4 of the Assessment Complaint form: Assessment amount and Assessment class.

Presentations of the complainant and respondent were limited to:

- Assessment overstated in relation to comparable properties.
- Income approach (residual land evaluation) indicates assessment is overstated.
- Environmentally sensitive lands are over assessed

Complainant's Requested Value: \$ 4,396,148.00

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

Complainant's position: The complainant presented information to the Board firstly with regard to the wetlands. The Silverado subdivision has gone through a long approval process which included outline plan, area structure plan bylaw as well as a land use re-designation under the land use bylaw. It is recognized that the wetlands, once the subdivision is registered at Land Titles, will be designated ER and transferred to the City. The subdivision was not registered as of December 31, 2009 and no ER designation exists for the wetland component of the subject parcel. These

wetlands are an integral part of the wetlands to the south which have already been dedicated to the City. These lands can't be sold and as such have no value. Reference was made to previous decisions both by the Courts and the Calgary ARB.

For the balance of the lands, the Board was presented with a detailed residual land valuation. This valuation outlined all costs associated with developing the residential lands. These costs included development costs, finance charges, profit and management costs. This valuation, according to the complainant, shows what a developer would be willing to pay for the land considering the anticipated revenues. As part of this calculation purchase agreements with builders for individual lots were referenced to show the value of the future residential lots. The residual land valuation showed that the present value of the land is \$4,396,148.00 or \$ 159,976.00 per acre. The City assesses the wetlands at \$ 125,000.00 per acre while the developable land is assessed at \$ 400,000.00 per acre. While no equity or market comparables were presented the complainant did respond to the Respondent's comparables and it was also noted that comparable developable land in the same subdivision to the south is assessed at \$350,000.00 per acre.

Respondent's position:

The respondent acknowledges that all approvals are in place for this subdivision however as of December 31, 2009 the registration of this plan had not taken place. As such the land is assessed on a raw land basis however the environmental sensitivity of the wetlands is recognized in the assessment. Equity comparables were provided as well as aerial photographs. The respondents questioned whether the complainant had met the burden of proof requirements. The respondent does not accept the costs presented through the residual land valuation process.

Board's Decision and Reasons: Upon reviewing the verbal and written evidence provided by the parties, the Board finds that the only valuation evidence presented by the Complainant is not substantiated and acceptable. The equity reference with regard to the subdivision to the South is found to be appropriate and compelling. In light of the evidence provided through aerial photographs, approved plans and setbacks, the Board finds the arguments made with regard to the wetlands compelling and lacking any mass valuation evidence to the contrary, find a no value basis for the 15.4 acres of wetland. As such the Board reduces the assessment to \$8,430,000.00

DATED AT THE CITY OF CALGARY THIS 25 DAY OF October 2010.



F. Wesseling.
Presiding Officer

The Board was presented with the following submissions:

Complainant: C1 2010 Property Tax Appeal of Roll Number 201436599 prepared by United Communities

Respondent: R1 Assessment Brief prepared by City of Calgary Assessment Unit

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.*