

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of complaints against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

**between:**

***AEC International, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Paul G. Petry, PRESIDING OFFICER***

***Allan Zindler, MEMBER***

***Jim Pratt, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of Property assessments prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER</b>	<b>LOCATION ADDRESS</b>	<b>HEARING NUMBER</b>	<b>ASSESSMENT</b>
201495447	4000 12175 - 40 <sup>th</sup> Street S.E	58630	\$595,500
201495470	2000 12175 - 40 <sup>th</sup> Street S.E	58637	\$672,000
201495462	3000 12175 - 40 <sup>th</sup> Street S.E	58639	\$625,000

These complains were heard together on the 8th day of November, 2010 at the office of the Assessment Review Board located at floor number three, 1212 – 31 Avenue NE, Calgary, Alberta, boardroom 11.

Appearing on behalf of the Complainant:

- **AEC International – Mr. J. Luong**

Appearing on behalf of the Respondent:

- **The City of Calgary – Mr. K. Gardiner**

### **Property Description and Background**

The three subject properties are all bare land condominium parcels within a four unit block along 40<sup>th</sup> Street S.E Calgary. The fourth unit which is not under complaint is improved with a three story office complex and the Complainant suggests the three parcels under complaint are likely to be improved in a similar manner when demand for office space returns. The three parcels under complaint are just over one half acre in size at .567, .641 and .521 acres respectively. These properties have been assessed based on a valuation formula of \$1,050,000 for the first acre and \$300,000 per acre for the remainder. The dispute in this case centres on the per acre market value of the subject lands.

### **Issues:**

1. Is the market value for land under one acre in size substantially higher than for land over one acre in size?
2. Which sales are most reflective of the market value for the subject parcels?

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

1. The sales evidence supports the conclusion that smaller parcels sell at higher values.
2. The two sales brought forward by the Respondent and one sale brought forward by the Complainant are most similar to the subject parcels and the values of these sales support the assessments.

### **Summary of the Party's Positions**

#### **Complainant**

The Complainant brought forward eight 2008 land sales in the Southeast which were 2 acres or less

in size. These sales produced an average selling price of \$615,031 per acre and a median of \$618,255 per acre. Based on this analysis the Complainant recommended that \$615,000 per acre be applied to the subject parcels and on this basis the following are the recommended assessments for 2010.

1. Roll Number 201495447	.567 acres	\$348,705
2. Roll Number 201495470	.641 acres	\$394,215
3. Roll number 201495462	.521 acres	\$320,415

The Complainant argued that the Respondent's sales do not support their assessment formula and the first sale referenced by the Respondent supports the Complainant's recommendation. Further two of the four sales used by the Respondent to support the differential in values between smaller sites (one acre or less) and larger sites (over one acre) are in the northeast. There is no evidence to validate comparing northeast sales with southeast sales. The Dufferin sales offered by the Respondent are closer to the subject than most of the other sales and these sales support the values recommended by the Complainant. The Complainant acknowledged the development commitments and restrictions that have been place on Dufferin lands, however argued that such restrictions are common to most new developments. The Complainant also provided decision ARB 0533/2010P which it argued supports the value being requested.

## Respondent

The Respondent pointed out that six of the Complainant's eight sales are in the Dufferin or Eastlake district where land values have been shown to be consistently lower than other areas of the City. The Respondent brought forward a list of seventeen 2007 and 2008 sales in this district which show a range of selling prices between \$524,834 and \$768,180 per acre. The reason for lower values in this area was attributed by the Respondent to arise from the commitment to commence construction within 36 months of closing and a multitude of other conditions or restrictions such as an \$80,000 construction fee, minimum values for improvements, building orientation, architectural conditions, buffer areas, colour requirements, exterior material requirements, landscaping requirements and many others. These conditions were all set out in a document titled 'Easlake Industrial Centre – Sales Information Package" which refers to land use bylaw 1P2007.

The Respondent brought forward four sales to support their formula of \$1,050,000 for the first acre and \$300,000 for any acreage over the first acre. This formula had been applied in determining the assessments of the subject properties. Two of the four sales were less than one acre in size and sold in June 2008 for \$1,406,250 and \$1,254,480 per acre. The other two sales were of larger parcels one 1.3 acres and the other 1.47 acres which, sold for \$619,707 and \$840,381 per acre respectively. While one can not calculation the precise formula from this information, these sales according to the Respondent demonstrate the reason the formula is important and why it is used. The Respondent also provided a second table of four sales of properties less then one acre in size. Two of these were in the northeast and two in the southeast. The selling prices for these properties ranged from \$1,089,500 per acre to \$1,693,000 per acre which again the Respondent argued demonstrate higher market values per acre for smaller acreage. The Respondent referred the CARB to decision ARB 0636/2010-P wherein the Respondent's formula was accepted and the assessed value had been confirmed. The Respondent requested that the CARB also confirm the assessments of the three properties in this case.

**Findings and Reasons:**

The CARB has carefully reviewed the evidence respecting sales in the Dufferin – Eastlake district and concludes that sales in this area appear to track at lower values than most of the other sales brought forward by the parties. Part of the explanation for this may be related to size, as the majority of Dufferin – Eastlake sales are of parcels larger than one acre. The CARB, however also accepts the argument of the Respondent that the short term building commitment and the multiplicity of conditions and restrictions may be affecting the market value of these lands. For these reasons the CARB decided to place little weight on the sales in Dufferin – Eastlake. This finding is consistent with ARB 0636/2010-P. The CARB also reviewed the ARB decision cited by the Complainant ARB 0533/2010-P wherein the Board accepted a value of \$620,000 for a S.E. parcel that was less than one half acre in size. The parcel in this case was a long narrow strip of land and it would appear that the comparables brought forward by the parties were different than the comparables before the CARB in this case. Also there appears to be no evidence or argument concerning the development conditions and restrictions that apply to the Dufferin – Eastlake district. For these reasons the CARB has conclude that ARB 0533/2010-P is not germane to the matters before the Board in this case.

With respect to the question of size influence on market rates the CARB had three southeast sales to review. One from the Complainant's evidence and two from the Respondent's evidence as follows:

1.	10861 – 50 <sup>th</sup> Street S.E	.865 acres	\$666,329 per acre
2.	4520 – 34A Street S.E	.558 acres	\$1,254,480 per acre
3.	1125 – 42 Avenue S.E	.960 acres	\$1,406,250 per acre

These sales produce an average value per acre of \$1,109,000, which supports the Respondent's value of \$1,050,000 for lands less than one acre in size. The CARB agreed with the Complainant that there was insufficient evidence to determine the comparability of northeast sales to values in the southeast and therefore no weight was placed on the northeast sales. In the final analysis the CARB concluded that the best evidence of the market value for the three subject properties is the average selling price of \$1,109,000 for the three southeast sales shown above.

**Decision**

Based on a careful review of all the evidence and argument advanced in this case and in light of the findings and reasons above the CARB confirms the assessed values for each of the subject properties as follows:

<b>201495447</b>	<b>\$595,500</b>
<b>201495470</b>	<b>\$672,000</b>
<b>201495462</b>	<b>\$625,000</b>

It is so ordered.

No costs to either party.

DATED AT THE CITY OF CALGARY THIS 23 DAY OF November 2010.



Paul G. Petry  
Presiding Officer

**An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:**

*470(1) 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.*

*470(2) 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).*

*470(3) 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*