CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS

IN THE JURISDICTIONAL MATTER OF A COMPLAINT filed with the City of Calgary Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

between:

The City of Calgary, COMPLAINANT

and

DuCharme, McMillen and Associates Canada Ltd., RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

A preliminary hearing was convened on May 26, 2010 in the City of Calgary in the Province of Alberta to consider an application brought by the City of Calgary (Applicant) concerning assessment complaints filed by DuCharme, McMillen and Associates Canada Ltd. (Respondent) with respect to the following roll numbers:

Roll Number - 048075204

Roll Number - 049009798

Roll Number - 074003401

Roll Number - 201181757

Roll Number - 415075704

Appeared on behalf of the Complainant:

- *A. Cunningham – Counsel, City of Calgary*
- *K. Hess – City of Calgary*

Appeared on behalf of the Respondent:

- *G. Ludwig – Counsel, Wilson Laycraft for Colliers International*
- *S. Meiklejohn – Colliers International*
- *P. Lambie – DuCharme McMillen*

BACKGROUND:

Assessment complaints for the 2010 tax year were filed with the City of Calgary Assessment Review Board (ARB) on February 23, 2010 for the above noted properties. After the general filing of the 2010 assessment complaints, the Respondent stated that the City of Calgary had originally sought upwards of 1500 separate preliminary jurisdictional hearings to have composite assessment review boards (CARBs) consider applications to dismiss the complaints because of non compliance respecting the completion of the complaint form (schedule 1 of the Matters Relating To Assessment Complaints Regulation (MRAC). This number was later reduced to 50 or so cases which the Applicant suggested will hopefully set the ground work as to the CARB guidelines and expectations going forward. The subject complaints are five among the smaller set of cases which will come before the CARB for similar reasons. The primary focus of the alleged non compliance is with respect to sections 4 and 5 of the complaint form (schedule 1 of MRAC). The Respondent to the City of Calgary's application argued that their complaints with respect to the subject properties are in substantial compliance with section 460(7) of the Act and MRAC Section 2, and therefore are valid and should not be dismissed.

The CARB scheduled preliminary jurisdictional hearings, for May 26, 2010 to consider the City of Calgary's application to dismiss the subject complaints. The hearing of these matters was held in conjunction with similar jurisdictional matters respecting two roll numbers, 149150294 and 037182508, represented by Colliers International Realty Advisors Inc.(Colliers).

ISSUE:

Have the complainants failed to comply with section 460(7) of the Act and MRAC section 2(1) and if so is the complaint invalid?

POSITION OF PARTIES:

***Complainant's Position*:**

The Complainant stated that it does not take lightly the position that the complaints should be dismissed as is being advanced in this case. The complainant's right to bring forward their complaint and the right to a fair process is respected, however the changes to the Act and the new regulations must be ascribed their intended meaning. The new rules are different from those of the past and different from the old requirements under ACAR. If "any old thing can be put in and the new requirements ignored, then there will be no meaning to what the government intended". The City of Calgary has received over 5000 complaints for 2010 and the system becomes clogged-up because complaints are not thoroughly reviewed. It was argued that the purpose of the new regime is to place some onus on the complainant to consider whether they had reason to make a complaint.

When the 2010 complaints were received, the assessors reviewed them for completeness and where the assessor believed the form was not in compliance, using a list of potential issues, the assessors prepared letters to the General Chairman of the ARB with a copy to the complainants. These letters requested a preliminary jurisdictional hearing and outlined the reasons for the alleged non-compliance and all letters went out under the signature of Ms. K. Hess, Team Leader Tribunal and Data Management Services. In the subject cases section 4 of schedule 1 of MRAC (the complaint form) completed by DuCharme, McMillen and Associates Canada Ltd. (DuCharme) identifies no matters are subject of the complaint. This means that the

assessor must determine the matters of complaint from other responses in the form. The attachment respecting section 5 of the complaint forms lists the same 17 grounds for each complaint. These grounds are boiler plate responses identical across all complaints filed. It seems more than unlikely that all these issues are truly part of each complaint. Section 460(7) of the Act and MRAC schedule 1 of MRAC requires the complainant to provide their requested assessment. Here DuCharme provided $0.00 value in each case. The Applicant argued that this is a non answer and cannot be accepted as being in compliance with 460(7)(d) of the Act or section 5 of schedule 1 of MRAC. Further there is no reason that the complainant is not more specific in providing issues and grounds which would meet the requirements under the Act and MRAC and allow the City to understand the complaint, begin preparations of their case and potentially correct errors that the complainant raises in their complaint. The City provides both general and specific information on their web site, detail can be requested, an assessment explanation supplement can be ordered and the assessors are available by phone. The Applicant wants more, for example if the assessor has applied a cap rate of 7% and the complainant believes it should be 8% that should be stated on the complaint. The Applicant should be able, from the information provided on the complaint form, to calculate how the requested assessed value was determined by the complainant.

The Applicant argued that MRAC section 2 requires that a complainant must complete and file their complaint with the clerk in the form set out in schedule 1 of MRAC and failure to comply with this requirement results in the complaint being invalid and the CARB must dismiss the complaint. It was argued that "must" is to be construed as imperative and this is consistent with authorities on administrative law and interpretations by the courts. The Applicant argued that compliance with the formalities and conditions set out in schedule 1 are essential to the acquisition of the right being conferred, in this case the right to complain about one's assessment. The more specific breach alleged by the Applicant relates to serious deficiencies with respect to the information provided in sections 4 and 5 of schedule 1 wherein the complainant failed to provide specific reasons in the form of issues, grounds or the requested assessment. The Applicant argued that this information is mandatory and that this degree of detail is required for the Applicant to prepare for the merit hearing and to allow it to determine whether meaningful dialogue can occur toward finding a resolution of the issues. Section 4 asks the complainant to identify which of the matters set out in 460(5) of the Act is the subject of the complaint and whether a request for information has been made under sections 299 and 300 of the Act. Section 5 of the complaint form which mirrors section 460(7) of the Act asks for reasons for the complaint including:

- What information shown on the assessment or tax notice is incorrect
- In what respect that information is incorrect, including identifying the specific issues related to the incorrect information that are to be decided by the ARB, and the grounds in support of these issues
- What the correct information is
- If the complaint relates to an assessment, the requested assessed value

A bolded note in this section of the form reads: "**An assessment review board must not hear any matter in support of an issue that is not identified on the complaint form**". This warning is in reference to section 9(1) of MRAC.

The Applicant argued that the Respondent wants to preserve any and all issues and then declare their real case at the 42 day point prior to the hearing. The Applicant does not believe this is what the legislators intended. The intent is clearly to require more specific information on the complaint form so that the reasons for the complaint are clear. The Respondent claims there is insufficient time to discover the basis for the assessment, complete their analysis prior to the

filing date but perhaps the complainant should consider their need for more resources as this should not be an excuse for non compliance. If the complainant had done their analysis then they could be specific. In this case the agent appears to rely on Colliers for assistance but this does not excuse them from complying with the requirements. The 17 boiler plate statements cannot be seen as a valid and considered response to the requirements under 460(7) of the Act or Schedule 1 of MRAC. The Applicant relying on Black's Law Dictionary argued that an "issue" is a point in dispute between two or more parties and a "ground" is to provide a basis for something. In this case the complainant has not properly set out the specific issues and grounds but rather a shopping list or boiler plate statements that cannot be taken seriously.

Further the complainant has not identified a specific requested assessment but rather requested an assessment of $0.00. This is equivalent to leaving the question blank as the assessor can draw no conclusions whatsoever as to the magnitude of the complaint. This again, in the view of the Applicant, does not comply with the requirement of section 2 and schedule 1 of MRAC. Given that the complainant has not complied in completing schedule 1 the Applicant argued that no matter how harsh the penalty may be the CARB has no choice but to declare the complaints to be invalid under section 2(2) and to dismiss the complaints.

Respondent's Position:

The Respondent explained that at the time of filing a complaint that the only information available to the agent is the assessment notice. In many cases the agent has appealed the assessment in previous years but it is difficult to know how the new assessment has been developed. The Applicant however would be aware of the previous year's issues which often repeat from year to year. The assessor often does not carry forward board decisions from the previous year and while the agent did have discussions in November and December 2009 with City assessors prior to the 2010 assessments being complete, the assessment parameters change right up to the date the assessment notices come out. The City suggests information such as cap rates are available therefore the complainant should be in a position to respond if a cap rate is incorrect. However, cap rates and other assessment details are not in fact known to the agent early in the complaint process. There are several time consuming steps that must be taken after the assessment notice is out and before the agent can access the information that the Applicant says is available.

1) The owner will take some time to decide whether there may be an issue and if they want an agent to deal with their complaint.
2) The Agent Authorization Form must be completed and signed by the appropriate person. There is also a need to obtain the fee required for filing.
3) Then there is a separate form required by the City authorizing the agent to have access to information and make requests for this information. The City also requires a letter from the owner on the Company's letterhead in conjunction with the form. There is a further need to obtain the required fee charged by the City for the information to be requested.
4) If the City does not approve the access for information authorization for some reason then there is more time required to perfect the authorization required.
5) Once the City approves the authorization and informs the agent, the agent is able to submit its request.
6) The City is generally fairly expeditious in providing the information at this point.

This process can take up to 30 or 40 days to complete. The Applicant suggests that assessors are available for discussion prior to the filing deadline but the agent argued that it has no knowledge of which assessor is responsible and has not been successful in having such discussions. Further the assessor will not discuss matters with agents until the authorization form is filed and accepted. The Respondent argued that if one were to adopt the Applicant's position it would mean the Respondent would essentially be required to render their entire disclosure at the time of filing the complaint. This is not what the legislators intended and there is simply insufficient time to acquire the information on the assessment of the subject property and other relevant properties plus complete an analysis all ahead of the complaint filing date.

With respect to the requested assessed value, it is the Respondent's view that this number can only be a preliminary estimate at the time of filing the complaint. The agent at this point has not gathered all the required data and completed their analysis of the relevant data. The Applicant's disclosure, which comes much later, can impact this value and other decisions by the CARB also will ultimately have to be considered. Therefore the $0.00 value is reasonable and should be viewed as acceptable. There is no penalty for overreaching the quantum in dispute. This occurs routinely in civil cases without repercussion. As to the section 5, reasons, issues and grounds the Respondent claimed that the 17 issues and grounds listed can be categorized under one of 4 larger considerations. These categories are; characteristics and physical condition; market value of land and improvements; procedural considerations such as mass appraisal and equity; quality standards. DuCharme has relied on assistance from Colliers to determine the issues and grounds for each complaint. The list is similar for each complaint but the Respondent must raise all the grounds that could be important at the point of disclosure and hearing in light of section 9(1) of MRAC.

With respect to section 4, the Respondent has consistently not checked any of the 7 boxes in this section. It should be clear from other responses on the form that the matter in complaint is the assessed value. The Respondent indicated that their agency given the legislative changes and the City's rules on requests for information, have done as well as they can under the circumstances. The new system does warrant some lenience as it came upon the parties late in the year without specific rules and regulations. In answer to the heavy volume of complaints, the City suggests the Respondent change its business model and avoid any generic response to specifying grounds for complaints. Yet the City takes that very approach in filing their applications with the ARB as to the deficiencies it alleges. The City feels entitled to use such an approach but would have the taxpayer held to a higher standard.

The Respondent suggests that in some respects the City is the master of its own destiny. They have all the assessment detail at the time the notices are sent out and if they were to include on the notices the parameters used in arriving at the assessed value, a Complainant would be able to be more specific when making their complaint. As it stands all the Complainant has at the time of the complaint is the assessed value. All that is required of a Complainant is to indicate what is incorrect with respect to the information on the assessment notice; not to provide detailed concerns with regard to the minutia of data the assessor may have used in the development of the assessed value. The Applicant should not lie in the weeds for an opportunity to attempt to take away the right to complain but rather as suggested in the Alberta Court of Appeal case, Boardwalk Reit LLP v City of Edmonton; they should pick-up the phone and attempt to resolve their concern. This initiative has not been taken by the Applicant. The Respondent argued that the Act does not say that a complaint is invalid without the detail expected by the Applicant, however if an issue is missed the matters supporting that issue cannot be heard. The Respondent is well aware then that both these objectives must be

considered. There are no definitions provided for the various terms that are used to characterize information sought on the complaint form, however the MGB in BO 123/03 said grounds must be general. Boardwalk sets out that the tests should be ones of reasonableness and substantial compliance and it was argued that this standard has been met. The Respondent also argued that both Boardwalk and The Supreme Court of Canada case, Fullowka v Whitford stand for the notion that the severity of the penalty must not be disproportionate to the fault or harm. In this case if at fault at all, certainly the penalty of losing the right to have the complaints heard is not appropriate. This would only be done in rare cases indeed. The Respondent also cited a number of other cases in support of their position. The level of detail the City of Calgary expects at the complaint stage will be provided at the disclosure stage and this disclosure must be sufficient to allow the City of Calgary to respond. Therefore it is at this stage where the City may bring its case that there may be a deficiency in the Complainants disclosure.

The Respondent argued that 460(7) of the Act sets out four particulars that a complainant must provide, however there is some redundancy between sub clauses (c) and (d) respecting assessment amount complaints. The Respondent suggests that in reality there are only 3 components that should be provided.

1. What is incorrect - e.g. (the assessed value is incorrect) should be an adequate answer.
2. Why is the value incorrect - e.g. (the assessment is above market value) should be an adequate answer.
3. What is the correct information – e.g. (the requested assessed value)

These three components are also applicable to the other matters which may be subject to complaint. The Respondent argued that the Complainants in this case have provided sufficient information to satisfy the requirements under the Act and MRAC and have met the test of reasonableness. These complaints therefore should proceed to hearing.

BOARD'S DECISION

Legislative Requirements

The Applicant urges CARB to consider carefully the purpose and intent of the amendments to the Act and the new regulations as these changes must be given meaning. The Applicant has taken the position that the subject complaints do not comply with the requirements of MRAC (1)(a) and therefore the complaints are invalid and must be dismissed as set out in MRAC 2(2)(a) and (b). Before considering the wording of the regulations it is important to review the context provided by the Municipal Government Act (Act). Section 460(5) indicates that "a complaint may be related to any of the following matters, as shown on an assessment or tax notice". The Board finds that the over arching requirements for a complaint relating to any of the ten matters set out in 460(5) of the Municipal Government Act (Act) are those set out in section 460(7) which reads as follows:

(7) "A complainant must

(a) indicate what information shown on an assessment notice or tax notice is incorrect,

(b) explain in what respect that information is incorrect,

(c) indicate what the correct information is, and

(d) identify the requested assessed value, if the complaint relates to an assessment"

The CARB places significant weight on the four complainant obligations referred to above as first, they are set out in the Act which takes precedence over the regulations including schedule 1 and second, they are preceded with the imperative words "a complainant **must**". The Act in section 467(2) further reinforces the significance of the complainant's four obligations under 460(7) by providing that the Assessment Review Board (ARB) **must** dismiss a complaint that does not comply with 460(7). That being said there is language used in this section that is not absolutely clear as to what is expected. The primary challenge, however appears to stem from section 460(7)(b) wherein the requirement calls for the complainant to "explain in what respect that information is incorrect" and (d) "identify the requested assessed value, if the complaint relates to an assessment". The MRAC regulations, apart from the schedule 1 (the complaint form), provides no further elaboration with respect to what may be meant by the words "explain in what respect that information is incorrect". It also must be kept in mind that the information being referred to in 460(7)(b) are not the details respecting the development of an assessment but rather the basic information which is shown on an assessment notice or tax notice. The Applicant argues that based on MRAC 2(1)(a) there is a requirement that the complaint form be complete in every respect leaving no room for partial completeness. Section 5 of the complaint form mirrors the requirement in section 460(7) of the Act but adds that reasons for the complaint must accompany the complaint form, including identifying the specific issues related to the incorrect information that are to be decided by the ARB, and the grounds in support of these issues. The Applicant argues that an "issue" is a point in dispute and that "grounds" are the basis for the point in dispute. Further this information is mandatory and the detail provided must be sufficient to allow the Applicant to prepare for the merit hearing and allow it to determine whether meaningful dialogue can occur toward finding a resolution of the issues.

Where the complaint relates to an assessment the CARB does not accept that the legislation intended this level of detail to be provided at the point of filing a complaint. In order for a Complainant to do so it would require that the Complainant, before filing a complaint, will have completed all of their investigations and analysis as to the reasonableness of both the market value of their property and whether the value established by the Assessor is equitable considering the assessments of similar property. If this could and should be done it would negate the need for the very detailed and binding disclosure rules set out in MRAC section 8, 9 and 10. The Applicant will in accordance with section 8(2)(a) receive full disclosure of the Complainant's case 42 days prior to the hearing. The Applicant then has 28 days to prepare and disclose their response to the complainant's case. In view of these provisions it would be unreasonable and premature to remove the property owners right to have its complaint heard based on standards of disclosure at the time of the complaint that are not justified by clear and unambiguous provisions of the Act and MRAC. The terms used to describe the information required by section 460(7) of the Act and those used to describe what information is being sought in section 5 of MRAC schedule 1 are not absolute or exacting. There are no definitions in the Act or MRAC for the words; matters, explain, reasons, issues or grounds. It appears to the CARB however that MRAC section 9(1) is helpful as it provides some clarity as to what is meant by the phrase used in section 469(7)(b) of the Act "explain in what respect that information is incorrect". MRAC 9(2) states that" a CARB must not hear any matter in support of an **issue** that is not identified on the complaint form". The CARB therefore concludes that the form of explanation that is required by 460(7)(b) are **the issues** which should speak to why the complainant believes the assessment or any of the other matters on the assessment or tax notice may be incorrect. Under 460(7)(b) "a complainant must" provide an explanation of what information is incorrect **(the issues)** and under 467(2) "an ARB must dismiss a complaint that

was not made within the proper time or does not comply with section 460(7), therefore if an explanation or at least one issue is not provided on the compliant form for each matter identified under complaint 460(5), the complaint on that matter should be dismissed by the CARB. Both 460(7) (c) and (d) address the requirement that the Complainant must provide "what the correct information is". In this regard it seems clear to the CARB that c) pertains to the non-assessed value matters listed under 460(5) and (d) clearly pertains to assessed value complaints. There are therefore three tests or components to a valid complaint.

1. **What** - Identification of what information (from those listed in 460(5) of the Act are incorrect and therefore the subject(s) of the complaint.
2. **Why** - Explanations as to why it is believed that this information is incorrect. These explanations will form the issues referred to in section (5) of schedule 1 and section (9) of MRAC.
3. **What is the correct information** – This must be the corrected assessed value if the matter relates to an assessment amount. For other matters in complaint this should be by way of example the correct class or sub-class; the correct school support detail; the correct name or mailing address of the assessed person and so on.

The CARB accepts that there is a need to consider the actual information provided by Complainants from a qualitative and reasonableness perspective, however it is our view these three aspects of a valid complaint must be present. If such is found not to be the case the CARB must dismiss the complaint in accordance with 467(2) of the Act which states " An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7)".

Standard of Compliance

The difficult question then is what standard should be applied to determine whether or not a Complainant has fulfilled their obligation under 460(7) of the Act and Schedule 1 section 4 and 5 of MRAC? In this regard the CARB considered all of the case references brought forward by the parties, however found that the Alberta Court of Appeal decision in Boardwalk Reit LLP v City of Edmonton 2008 concerning dismissal of complaints to be most helpful. This case relates to a MGA section 295(4) challenge wherein the complainant may be barred from proceeding to a merit hearing for reasons of failure to provide information requested by the Assessor. In this case the MGB and the Court of Queen's Bench had applied a relatively strict and rigid test as to the compliance of the Complainant in answering the information sought by the Assessor resulting in decisions to dismiss the complaints filed by Boardwalk. The Alberta Court of Appeal, however, rejected the reasoning of the MGB and Court of Queen's Bench and found that the proper tests to be applied were ones of "reasonableness" and "substantial compliance". The Court found that this level of flexibility is warranted in circumstances respecting a level of compliance that taxpayer needs to meet relative to information demanded by the Assessor. In this case the Court found the taxpayer need only to act reasonably, not correctly and the taxpayer's information need only to be substantially complete, not entirely complete. The taxpayer need only to do a reasonable amount of work and provide information in their possession not create or go out and find information to satisfy their obligation.

The more rigid standard advocated by the Applicant apparently resulted in approximately two thirds of the 2010 complaints being considered to be non-compliant. This suggests to the CARB that the standard expected by the Applicant is not understood or evident to the majority of taxpayers. Many of the complaints may be represented by qualified tax agents but the standard of compliance must consistent and consider a wide range of abilities, knowledge and

understanding among potential complainants. In other words the standard should be that which the average lay Complainant will understand and be capable of successful compliance. The CARB finds that reasonableness and substantial compliance tests similar to the Boardwalk decision are appropriate in the context of assessment complaints made under the provisions of the MGA and MRAC.

Therefore respecting the application before the CARB in this case we find that the taxpayer is required to provide information respecting what is incorrect or being complained about, why that complaint is being raised and what is the correct information that should appear on the assessment notice. If that information can be reasonably said to be contained within the complaint form, then it can be said that substantial compliance has been met. Where these particulars are not found to be present within the complaint form then the complaint should be found to be invalid and should be dismissed in accordance with 467(2) of the Act and MRAC section 2(2).

The Complainant in this case had failed to indicate in section 4 of schedule 1 what matters were incorrect or were the subject of the complaint. While this deficiency alone is not fatal as the fact that the complaint is about the assessed value can be gleaned from other responses within the complaint form, the CARB believes that this is reflective of the lack of sincerity in providing other required information as well.

Complainants provided 17 identical reasons, be they issues or grounds, for all five complaints as to why the assessed values may be incorrect. The CARB accepts that one or more of these statements satisfies 460(7)(b) of the Act and section (5) of schedule 1 of MRAC. The dilemma, however is a list of 17 issues and grounds appears to be akin to a Christmas wish list where in the end one may expect one or two items to come to fruition or be relevant. The Applicant suggested that this type of boiler plate listing is not helpful as there are simply too many trails to follow only to find that one or two the these issues will be focused on later in the process. This approach is more egregious in this case than in the Colliers case that was heard together with the subject case, as the 17 statements are seemingly identical. It looks very much like the proverbial fishing trip. One purpose of the complaint criteria in both the Act and the Regulations is to allow the CARB to determine if there is some validity to the complaint being made and to allow the CARB to determine if it has jurisdiction to proceed with a hearing. The complaint process also should allow the Assessor to gain a basic understanding of what is being complained about and what relief is being sought. The CARB understands that because section (9)(1) restricts the hearing of only matters in support of the issues set out in the complaint that the Complainant is concerned about not citing an issue that later may become important to their case. The time frame however has been expanded from 30 days to 60 days to file a complaint. This should allow time for prudent Complainants to review their assessment in light of basic and available data and complete a rudimentary analysis as to whether they may have some justification to bring forward a complaint. This may result in broader issues and grounds being cited but the issues should be relevant to the property under complaint. Where the complaint is based on some atypical feature of the subject it should be apparent in the complaint. In cases where the Complainant believes that the issue pertains to one or more factor values imbedded within the assessment approached used by the assessor and this information has yet to be disclosed this understandably will lead to more broadly defined issues or grounds which may also be common to a particular property category. The CARB did not hear what may have led to the identical issues being used in the five DuCharme cases before it.

In the subject cases the CARB finds that the Complainant's compliance with the intent of the provisions under 460(7) (b) was only marginal even giving the taxpayer the maximum benefit of

the doubt in this inaugural year. The argument that these issues, although numerous and common to many complaints, are specific to each property does not apply in this case as it did in the Colliers cases. The CARB therefore has the general impression that the Complainants have taken a boiler plate approach and have not taken sufficient care to determine the scope of complaint for each property. Arguments were presented that the CARB should show some lenience for the 2010 complaint year in view of the new complaint regime and the late hour that the regulations and processes were known to the Complainants. The CARB has taken this point into consideration and finds that subject complaints, even more narrowly then was the with Colliers case, meet the tests of reasonableness and substantial compliance respecting the second validity criterion for the subjects 2010 complaints.

The Applicant argued that the requested assessed value to be shown in section 5 of schedule 1 must be what the Complainant is actually seeking as a correction to the assessment. In this case the complaint forms all show requests of $0.00. The Respondent argued that the Applicant is not disadvantaged or prejudiced in any way. Further, whether the amount shown is a 5% reduction or $0.00 the value is preliminary pending the additional information and analysis that will be done between the filing of the complaint and their disclosure 42 days before the hearing. Also the value may be impacted by the eventual disclosure of the assessor and future CARB decisions. The CARB believes the requested values on complaints should be a complainant's estimated value based on fairly rudimentary analysis done to determine whether there is a reasonable basis for the complaint. This initial value may be later impacted as the complainant makes out their full case for disclosure under section 8 of MRAC and may again be impacted by the disclosures of the assessor. The arbitrary setting of the requested value at $0.00 however seems to the CARB to be cavalier and frivolous without any attempt to determine an estimated value from the facts that should have formed the basis for the complaint. While the Respondent dismisses the importance of providing any requested value the CARB does not accept that reasoning. For example if the value requested only represents a very small reduction in the assessment the Assessor may choose to place very little resource against such complaints. On the other hand if the requested value is substantial and perhaps legitimately so the Assessor may take more initiative to resolve the matter or alternative spent more time in analyzing the assessment to be assured that some gross error has not been made. Whether these musings of the CARB correctly reflect the contemplations of the legislators or not, the fact remains that the requirement on a Complainant by virtue of 460(7)(d) of the Act is that the requested assessed value be provided. The CARB finds that requests of $0.00 when the assessed values are in the many millions of dollars are simply not reasonable and cannot be considered to be in substantial compliance with 460(7)(d) of the Act as described by the CARB as the third essential component or test of a valid complaint.

Decision and Direction

The CARB is mindful of the harsh consequence of its decision, however given the weaknesses discussed earlier coupled with the outright failure to attempt to comply with 460(7)(d) the CARB decides in this case that it must dismiss the five subject complaints in accordance with 467(2) of the Act and section 2(2) of MRAC.

It is so ordered.

MAILED FROM THE CITY OF CALGARY THIS 10 DAY OF JUNE 2010.

Paul G. Petry
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO.	***ITEM***
1.	Exhibit 1A - City of Calgary Submission re. Colliers International
2.	Exhibit 3A – Interpretations Act
3.	Exhibit 4A – City of Calgary Court Cases
4.	Exhibit 5R – Colliers International Submission

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.*