

**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, Revised Statutes of Alberta 2000 (the Act).

between:

Bahari Investments Inc. (as represented by Crestar Management Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
J. Rankin, MEMBER
A. Zindler, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER:	201408135
LOCATION ADDRESS:	718 – 5075 Falconbridge BV NE
HEARING NUMBER:	62690
ASSESSMENT:	\$275,500

This complaint was heard on 23rd day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *No one appeared*

Appeared on behalf of the Respondent:

- *Ms. W. Wong, Assessor, City of Calgary*

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

None

Property Description:

The subject was not well described by either the Complainant in his complaint form, nor by the Respondent – who chose not to present her evidence Brief. Nevertheless, it appears from a photo in the Respondent's package that the subject is one of several retail units in a multi-unit retail strip mall in Falconridge. It is assessed at \$275,500.

Issues:

The Complainant identified in Section 4 on his complaint form that the "amount of the assessment" is at issue.

Complainant's Requested Value:

The Complainant did not identify a requested value under Section 5 on the complaint form.

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

The Complainant identified under Section 5 on the complaint form, the following:

"This unit was jointly purchased with #722 in year 2010 for unit price of \$220,000.00 each for a total of \$440,000.00 for the two units. Similar retail outlets are available for the same or less unit price. Discussed this matter as a Real Estate Broker with Assessor (Shelly) in your Dept."

No other information was submitted by the Complainant, nor was the Complainant in attendance to speak to this matter.

The Respondent noted that under relevant Legislation in the Municipal Government Act (MGA) and Alberta Regulation 310/2009 – being Matters Relating to Assessment Complaints Regulation (MRAC), the onus is on the Complainant to provide documents and argument to convince the Board that the assessment is incorrect. She confirmed that no Complainant disclosure had been submitted to either the City or the Board as is required under relevant

Legislation governing assessment appeals. Therefore, the Respondent advised that the City would not be submitting any evidence in this appeal Hearing.

The Chairman noted that in his file, there was documentation from the Board's Administration that confirmed no Complainant disclosure had been received by the Board either.

Consequently Sections 8 and 9 of Alberta Regulation AR310/2009 being "Matters Relating to Assessment Complaints Regulation" (MRAC) apply. These Sections state in part:

"Disclosure of evidence

8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing,

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing,

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Failure to disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.....”

The Board noted that while the Complainant stated on his complaint form that the subject had transacted in 2010 at \$220,000 jointly with another unit (#722), there was no evidence of any kind to confirm any of the sale’s particulars. The Board was unaware of the date of the sale; whether or not it was an arms-length transaction; or any other pertinent details related to it. Nor was there any other market evidence provided by the Complainant.

Therefore, considering all of the foregoing, the Board has no alternative but to confirm the assessment.

Board’s Decision:

The assessment is confirmed at \$275,500.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF July 2011.



K. D. Kelly
Presiding Officer

APPENDIX “A”**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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None	
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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.*