

**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:

***Gold Bar Development Ltd., and
Osgoode Investments Inc.
(as represented by Linnell Taylor Assessment Strategies),
COMPLAINANTS***

and

The City Of Calgary, RESPONDENT

before:

***J. Noonan, PRESIDING OFFICER
P. Charuk, MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of a property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	035139203 / 055067003
LOCATION ADDRESS:	725 Northmount Dr NW / 1903 8 AV NE
FILE NUMBER:	65716 / 65715
ASSESSMENT:	\$8,630,000 / \$14,830,000

These complaints were heard on the 2nd day of August, 2012 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- Mr. D. Sheridan Agent, Linnell Taylor Assessment Strategies

Appeared on behalf of the Respondent:

- Ms. S. Poon Assessor, City of Calgary

Board Decision: Preliminary Matter:

[1] At the outset of these hearings, the Respondent raised a preliminary matter that applied to both hearings. The Respondent challenged the standing of Linnell Taylor Assessment Strategies (**LTAS**) to act as agent for these two complainants. Attention was drawn to the Assessment Complaints Agent Authorization completed by both property owners appointing Canadian Valuation Group Ltd (**CVG**) as agent. A letter dated April 13, 2012 from **CVG** to the Assessment Tribunal Unit, City of Calgary, and the Assessment Review Board listed ten different Calgary properties which included these two properties and continued:

Please be advised that Linnell Taylor Assessment Strategies will be assisting us in relation to all matters of property assessment and taxation pertaining to the above-captioned properties.

This letter is your instructions to deal with Linnell Taylor Assessment Strategies, their officers, employees and agents, to release to them such information and documentation as they may request, and to discuss with Linnell Taylor assessment Strategies any and all matters relating to these property assessments.

[2] The Respondent argued there was no agency agreement between the **Complainants** and **LTAS**. To allow **LTAS** to represent the **Complainants** at these hearings would be contrary to section 51 of Alberta Regulation 310/2009 *Matters Relating to Assessment Complaints*).

[3] The Respondent next drew the Board's attention to a decision of the Calgary Assessment Review Board, LARB 0505/2012-B, that dealt with the same preliminary matter and found that **LTAS** was not properly authorized to act on behalf of the Complainant. The **LTAS** disclosure document was found "to be improper and not to be considered by the Board." That Board confirmed the assessment.

[4] At this point, the Complainant's representative observed that LARB 0505/2012-B was chaired and written by Ian Fraser, also a member of the panel hearing this matter. Mr. Sheridan explained he was in a difficult position, as he believed Mr. Fraser had already reached a decision because today's matter was the same as addressed by LARB 0505/2012-B. Mr. Fraser volunteered that he had declared a position on this matter previously and accepted to recuse himself. The Board solicited the parties' views on the propriety of continuing the hearings of the preliminary matter with a two-member panel and neither objected.

[5] The two remaining panel members heard submissions from both parties on this matter, considered the submissions and were unable to reach a majority decision. Accordingly, the members declared the hearings to be a nullity.

[6] The Assessment Review Board, in s. 43 of its Policies and Procedural Rules, provides that:

When a panel of the Board, constituted by only two members, is unable to reach a majority decision on the merits of a complaint, the hearing will be declared a nullity and a new hearing will be scheduled for the hearing of the complaint.

Having declared the hearings a nullity the Board finds that the intent of s. 43 will apply here as well. Administration will contact the parties to schedule new complaint hearings after August 24, 2012. A new panel will be constituted for those hearings. The parties have been advised there will be no further disclosure of evidence with the exception of an agent authorization form from each of the two property owners.

DATED AT THE CITY OF CALGARY THIS 11 DAY OF September 2012.


J. Noonan
Presiding Officer

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. R1 pp 5,7,8,9,12	Respondent Disclosure