

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

between:

***Deelaw Enterprises Inc., COMPLAINANT,
as represented by Colliers International Valuation & Advisory Services***

and

The City Of Calgary, RESPONDENT

before:

***T. Helgeson, PRESIDING OFFICER
D. Steele, MEMBER
E. Reuther, 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: 101004307

LOCATION ADDRESS: 102 58th Avenue S.W.

HEARING NUMBER: 61319

ASSESSMENT: \$1,880,000

This complaint was heard on Friday, the 5th of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *D. Porteous, G. Jobagy, and M. Uhryn*

Appeared on behalf of the Respondent:

- *R. Farkas*

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

No procedural or jurisdictional matters were raised.

Property Description:

The subject property is a used car lot on 102 58th Avenue SW, and abuts the south LRT on its west side. The land area is 37,897 sq. ft. The only structure on the property is a 700 sq. ft. trailer used as a sales office. The property is zoned C-COR3.

Issues:

1. Should the trailer be removed from the assessment as being of no value?
2. Is the assessed land value of the subject property excessive?

Complainant's Requested Value: \$1,300,000, based on a land rate of \$36 per sq. ft., and removal of the trailer from the assessment.

Summary of the Complainant's Submission

Unlike a permanent structure, the trailer on the subject property is not affixed to the ground. Nevertheless, it is assessed at \$78,000. The trailer does not have a concrete foundation, and there is no running water. The only service is electricity. The best property description of the trailer is "chattel." It is a moveable piece of property. If the subject property were put on the market, it would be presented as land for commercial development. The trailer would then have a negative value because it would have to be removed from the property. There is an auto dealership at 1509 9th Avenue SE in Inglewood with a two-storey building, and unlike the subject property, that property is assessed as land only.

The base land rate for C-COR3 in the Manchester industrial area is \$64 per square foot. The subject property is assessed with a \$47 per sq. ft. land value that includes negative adjustments for limited servicing and proximity to the LRT tracks. Traffic counts along Macleod Trail and Barlow Trail are much higher than traffic counts along 58th Avenue. The trailer should be removed from the assessment, and the assessment of the land reduced to \$36 per sq. ft. based

on C-COR3 commercial rates along Barlow Trail NE.

Summary of the Respondent's Submission

The improvement, i.e., the trailer, does add value to the property, as will be demonstrated by two sales of the subject property in which the improvement was maintained and used as a sales office. Evidence will show that the improvement has been in place at least since 1995. For all intents and purposes, the improvement is a permanent fixture. The rates that apply to properties in Inglewood are not the same as those in this matter. C-COR3 land rates are applied City-wide. The ratio of parcel size to rate per square foot will show that the subject property is assessed under the same sale parameters as other C-COR properties in the City, and sales will demonstrate how land values were developed for Commercial Corridor land.

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


The Board notes that "Structure" is defined in s.284(1)(u) of the Act as follows: . . . *a building or other thing erected or placed in, on, over, or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land.* The Act defines "improvement" (in s.284(1)(j)) as:

- (i) *a structure,*
- (ii) *any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,*
- (iii) *a designated manufactured home, and*
- (iv) *machinery and equipment.*

Obviously, the "trailer" is an improvement whether or not affixed to the land, and improvements are assessable. Furthermore, the Respondent's evidence shows that in sales in 2003 and 2006 the improvement transferred with the land, and remains on the land as an office to this day. In the result, the Board finds the improvement has value. As for the Inglewood property with an auto dealership on it, the Respondent's evidence was that the land value superseded the value of the improvement. There was nothing to indicate that that was the case with the subject property. The Respondent's evidence indicated no negative influences in the assessment of the subject property, and that the subject property is assessed at the same rate, \$47 per sq. ft., as other C-COR properties in the 40,000 sq. ft. size range. In the result, the Board found no reason to alter the assessment.

Board's Decision: The assessment is confirmed at \$1,880,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF September 2011.



T. Helgeson
Presiding Officer

Exhibits:

C-1, Complainant's submission

R-1, Respondent's submission

R-2, CARB decision 1110/2011-P

R-3, CARB decision 1147/2011-P

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.*