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:

General Supplies Co. Ltd. (as represented by P.Mahoney), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Mowbrey, PRESIDING OFFICER
A. Blake, MEMBER
R. Roy, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	**066078403**
LOCATION ADDRESS:	**1720 Bow Tr SW**
FILE NUMBER:	**65555**
ASSESSMENT:	**$11,200,000**

This complaint was heard on the 5th day of September, 2012 at the office of the Assessment Review Board located at Floor Number four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom five.

Appeared on behalf of the Complainant:

- R. Mahoney

Appeared on behalf of the Respondent:

- R.Farkas
- D.Lidgren
- L.Gosselin

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

[1] Upon questioning by the Presiding Officer, the parties present indicated no objection to composition of the panel. In addition, the Board members indicated no bias on this file.

[2] The Complainant advised the Board that the appeal was being brought to the Composite Assessment Review Board (CARB) by the tenant and not the owner.

[3] The Complainant raised a number of preliminary issues:

a) **The Complainant requested an adjournment due the fact that the Complainant' retained an appraiser and the appraiser could not be in attendance at the hearing.**

The Complainant advised the Board that the Complainant had requested a postponement on August 22, 2012, the request was denied on August 28, 2012 by the General Chairman. In seeking the postponement, the Complainant cited time was needed to submit the rebuttal argument report that was not available at initial disclosure deadline of July 23, 2012. The Complainant sought an extension to September 5th,2012 for filing. Further, the creator of the rebuttal report was unavailable on the scheduled hearing date of September 5, 2012.

The Complainant advised the Board that the panel is a quasi-judicial Board and was therefore bound by natural justice and procedural fairness. A violation of this issue would be subject to judicial review.

The Respondent's position is a one member panel (the General Chairman) denied a postponement earlier and the Complainant is attempting to circumvent the previous decision.

The Board recessed, deliberated and rendered a decision. The decision is not to grant an adjournment and proceed with the merit hearing.

The Board is cognizant of the fact that a one-member composite assessment review board may hear and decide on one or more of the following matters as related to *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (*MRAC) section 36(2)b:*

a procedural matter, including, without limitation, the scheduling of a hearing, the granting or refusal of a postponement or adjournment, an expansion of time and an issue involving the disclosure of evidence;

The Board is further cognizant of the fact that the Board can rehear any matter before making its decision, and may review, rescind or vary any decision made by it. (*Municipal Government Act (MGA) section 504.)*

Although not specifically directed to legislative authority by the Complainant, the Board understands the request for an adjournment by the Complainant to have two purposes, one – to allow for the filing of the rebuttal report, and two – to allow for the attendance of the appraiser who created the appraisal, which is said to be found in the rebuttal report. Circumstances of expansion of time are provided for in s.10 of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC). The Board will not issue an order expanding the time as contemplated in s.10(2) of MRAC.

The Board does not consider the circumstances presented to be exceptional warranting an adjournment. The complaint was filed on March 1, 2012. Hearing notices were issued to the parties on June 6, 2012, including notification of disclosure dates. The Complainant has appealed the assessment on the subject property in the previous year. The decision of the Board on that matter is now the subject of an appeal to the Court of Queen's Bench by the Complainant. Given the Complainant's ongoing involvement in the matter, the Complainant is aware of the legislative boundaries of disclosure and rebuttal under MRAC. There are no new issues being argued before the Board in this appeal, from those last year. The requirement of the Complainant to provide disclosure 42 days prior to hearing remains the same (MRAC, s.8(2)(a)). Rebuttal is due 7 days prior to hearing (MRAC s.8(2)(c)). The Board is not persuaded that the circumstances of the Complainant were exceptional to cause unavoidable delay in producing the rebuttal report within the allotted time provided under regulation.

b) The Complainant asked the Board to demand the Respondent produce documents:

1: purchase agreement between the owner and the City of Calgary.

2: land titles historical records indicating sales of the subject property.

The Complainant submits that the Board may compel the Respondent to provide documents to the Board. The Board is aware that the Board has some power to demand certain documents and or things according to the *Municipal Govenrment Act (MGA) section 465(1)* notice to attend or produce;

> 465(1) When in the opinion of an assessment review board,
>
> a) the attendance of a person is required, or
>
> b) the production of a document or thing is required,
>
> the assessment review board may cause to be served on a person a notice to attend or a notice to attend and produce a document or thing.

The Board denies the Complainant's request that the Board demand certain documents from the City. The Respondent takes the position that the purchase agreement between the seller and purchaser (City) is confidential and not subject to disclosure under Freedom of Information and Protection of Privacy legislation.The Board is not persuaded by information provided by the Complainant that the production of the purchase agreement or historical title information are necessary to determine the matter at hand.

c) The Complainant requested the rebuttal be allowed into evidence even though it was late.

The Board denied the Complainant's request to allow into evidence late rebuttal evidence.

There is no question that the Complainant filed the complaint forms and disclosure evidence on time. The problem arises that the supporting rebuttal evidence to both the Respondent and the Board was filed late.

Under MRAC s.9(2):

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

Any rebuttal evidence filed by the Complainant was required to be filed by August 28, 2012. The Complainant's documents were filed on September 4, 2012, the day prior to the hearing. It was the Board's decision not to grant an expansion of time, and as such no evidence contained in the rebuttal can be heard by the Board.

During the hearing, it was necessary to adjust the schedule, so two hearings in the afternoon could go to another panel, so this hearing could continue. Administration of the *MGB* was able to schedule another Board, but the Respondent advised the parties that a different assessor will attend in the afternoon. The Complainant objected to the change in assessors. The Board ruled on the objection and stated to both parties that it is up to the Respondent and the Complainant to determine who will represent them. As it so happens, the replacement assessor was the actual assessor that prepared the Complainant's 2012 assessment.

During the cross-examination of the Respondent, the Complainant asked the Respondent about the Respondent's qualifications. The Presiding Officer advised the Complainant that the parties decides who should represent them and the Respondent's qualifications were not germane to the presentation of the evidence. The Respondent's representative had not been slated to appear as an expert witness, and questions regarding his professional qualifications as an Assessor were not germane to the presentation of the Respondent's case. In the event that the Respondent had identified the Assessor as an expert for the purpose of the hearing it would be for the Board to satisfy itself of their expertise. The Board had no notification that the Complainant would seek to qualify the Assessor's qualifications.(MRAC s.8(2)(c))

During the cross-examination of the Respondent, the Complainant asked the Respondent how many hours the Respondent worked on the Complainant's assessment. The Presiding Officer stated that this was not the issue and the Complainant should proceed with another line of questioning.

The Complainant advised the Presiding Officer that the Complainant did not object to being over ruled, but the Complainant wanted the issue on the record, as it was necessary for another jurisdiction.

Property Description:

[4] The subject property is a 456,082 square foot parcel of land located just outside the downtown core of Calgary in Sunalta. The subject property is located at 1720 Bow Trail SW. The subject property was constructed in 1964 and has a 2012 assessment of $11,200,000.

Issues:

[5] Considering the land is contaminated, what is the market value of the subject property?

Complainant's Requested Value: $3,500,000.

Complainant's Position:

[6] The Complainant filed this complainant on the basis that the subject property assessment of $11,200,000 was inequitable and in excess of market value. Both the Complainant and the Respondent agree the subject property is contaminated, but the issue is to what extent? In support of this position, the Complainant presented the Board with a ten tab binder marked as Exhibit C-1.

[7] The Complainant advised the Board that the subject property is heavily contaminated as the result of previous wood preserving operations which occupied the lands. The site is orphaned from a remediation perspective and is in the process of being re-purchased by the City of Calgary, which had sold it without disclosing the contamination to the purchaser.

[8] The Complainant advised the Board that remediation of the subject property far exceeds any possible "as clean" value. The Complainant stated the last remediation estimate was $55,000,000 +.

[9] The Complainant advised the Board that an analysis of market value of the subject property based on sales is not possible. The Complainant stated that extensive investigation, including inquiries to the City's Tax Department, has failed to identify any instances of arm's length sales of similarly contaminated properties.

[10] The Complainant advised the Board that development of the site is sterilized for the foreseeable future, and no conventional financing is available to a prospective purchaser.

[11] However, the Complainant stated that the income approach was utilized with an 18% capitalization rate to arrive at an assessment value of $3,500,000.

[12] The Complainant advised the Board that the owner purchased the property in 1969 (Exhibit C-1 tab 1).

[13] The Complainant stated that a arm's length lease amending and extension agreement was executed in 2009, thereby extending the lease to 2016. The Complainant advised the

Board that the owner has the right to terminate the tenant's lease with 24 months notice. The Complainant stated that $530,000 rent paid to the owner by the tenant is the net operating income. This figure of $530,000 was used in the income approach to value. The Complainant also advised the Board that the tenant is imperilled due to the 24 months notice to terminate(Exhibit C-1 tab 2).

[14] The Complainant advised the Board of the type of contamination and stated the site was a mess and referred to a October 1990 report by Golder Associates(Exhibit C-1 tab 3).

[15] The Complainant advised the Board of the technical aspects regarding the aquatic impact assessment, contaminant loading assessment and qualitative health risk assessment. Two papers summarizing the investigations and studies were undertaken from 1989 to 1992 (Exhibit C-1 tab 4).

[16] The Complainant provided the Board with an article from the Calgary Herald, dated November 2009 regarding the subject site and the fact that the development of the site was still a long way off. Of interest was the fact that remediation was estimated to range from $30 million to $100 million (Exhibit C-1 tab 5).

[17] The Complainant provided the Board with a letter from a contaminated site specialist, Government of Alberta, stating that Alberta Environment would not allow development that was a risk to human health (Exhibit C-1 tab 6).

[18] The Complainant provided the Board with American environmental reviews on decisions regarding environmental decisions (Exhibit C-1 tab 7).

[19] The Complainant provided the Board with an Edmonton CARB decision 0098 633/10 dated December 2010. The issue was similar to the present appeal in that the site was contaminated and the costs associated with remediation. The Complainant advised the Board that the 18% cap rate utilized by the Complainant was obtained from this CARB appeal. The 18% cap rate was high due to the perceived risk from onsite contamination. The Complainant stated the Edmonton CARB decision is relevant, because it deals with an Alberta contaminated site, and in the Complainant's view, is precedential (Exhibit C-1 tab 8).

[20] The Complainant provided the Board with two more articles covering valuation of properties affected by contamination and excerpts from legal decisions relating to assessment of commercial, industrial and utility properties from a British Columbia perspective (Exhibit C-1 tabs 9 & 10).

[21] The Complainant referred to CARB 0994/2011-P and noted the following: "Mass appraisal is a tool to arrive at valuations that meet the market value standard and not a defence of equity when that standard is not reasonably met. The Board is bound to the legislated standards of assessment; however, it is not bound to the chosen procedures and methodologies of the assessor if they are found to yield an unreasonable estimate of market value, regardless of the fact that assessments of other properties may have been prepared in a similar manner. The Board can only address the assessments that are properly before it." (Exhibit C-2).

[22] During cross-examination, the Complainant questioned the Respondent regarding the purchase of the subject property by the City of Calgary.

[23] During cross-examination, the Complainant asked the Respondent, who did the assessment for the last two years and the Respondent (assessor) stated that he had prepared the assessments. In addition, the Complainant asked the Respondent about the huge increase in assessment from two years ago. The Respondent stated that he prepared the assessment according to the mass appraisal standards.

[24] During argument and summation, the Complainant noted the City bought one site from a purchaser that had only bought the site a few months earlier. The Complainant considers the sales to be non-arms length as all the sales are to the City of Calgary. The sales were not listed and the negotiations were behind closed doors between the owner and the City of Calgary. The Complainant stated that you had to rely on what is reported publicly.

[25] The Complainant stated that the valuation method decrees that the subject property should be valued at market value. Market value should be the probable price negotiated between a willing buyer and a willing seller and exposed to the open market.

[26] The Complainant stated that not every property fits into a "cubby hole" of market value based on the cost approach. This can lead to unfair and unjust valuations.

[27] Again during argument and summation, the Complainant stated the property should be valued as a clean property and then deduct the cost or remediation and therefore one could value the subject property as zero, as the cost of remediation far outweighs the market value of the subject property.

[28] The Complainant notes that an approach to reasonable value is what the rents are producing and the tenant and the owner had negotiated at arms-length a rental rate that is fair and reasonable.

[29] The Complainant again submitted the income approach is best and not the cost approach.

[30] The Complainant admitted that his client pays the taxes, but would not be responsible to pay the remediation costs.

[31] During cross-examination, the Complainant asked the Respondent, if he looked at the previous year's assessment and the Respondent answered that it was irrelevant, as each year is done independently.

[32] During cross-examination, the Complainant asked the Respondent, when you first assessed the subject property for a radical change? The Respondent replied the change was in 2011 and the market supported the change.

[33] During cross-examination, the Complainant asked the Respondent, would you use more than one approach to value? The Respondent stated, usually not and all car dealerships are assessed on the cost approach.

[34] During cross-examination, the Complainant asked the Respondent, if the assessment of property is completed on an annual basis and did the Respondent obtain assistance for assessing the subject property? The Respondent stated that only he did the assessment and it is legislated to do an annual assessment on all commercial properties.

[35] The Complainant asked the Respondent about the detail regarding the City of Calgary buying the subject property from the owner. The Respondent admitted he knew little about the transaction and the Complainant had the task to review the transaction for his own purpose.

[36] The Complainant asked the Respondent about the three sales around the subject property and the Respondent replied that the City bought two of the properties and G.A. Ross bought the third.

[37] The Complainant asked the Respondent if the City considered the highest and best use of the subject property and the Respondent replied that they don't usually deal with highest and best use of a property, as that is site specific. The assessment department deals with mass appraisal to establish market value.

[38] The Complainant having the last word reiterated the evidence from Exhibit C-2, stating that "Mass appraisal is a tool to arrive at valuations that meet the market value standard and not a defence of equity when that standard is not reasonably met. The Board is bound to the legislated standards of assessment; however, it is not bound to the chosen procedures and methodologies of the assessor if they are found to yield an unreasonable estimate of market value, regardless of the fact that assessments of other properties may have been prepared in a similar manner. The Board can only address the assessments that are properly before it."

[39] The Complainant stated that the Respondent did not address the above paragraph regarding the methodologies, should the assessment yield an unreasonable estimate of value.

[40] The Complainant requests the Board to reduce the 2012 assessment from $11,200,000 to $3,500,000.

Respondent's Position:

[41] The Respondent presented a 206 page brief to the Board marked as Exhibit R-1.

[42] The Respondent provided the Board with a summary of testimonial evidence (Exhibit R-1 pages 4-5).

[43] A number of issues discussed by the Respondent are as follows:

a) The subject property assessment and other similar assessments were prepared using the cost approach assessment and methodology for value.

b) The requested assessment of $7,000,000 is on the ARB complaint form filled out by the owner.The Respondent would like to know where the $7,000,000 comes from, and how the calculation of $7,000,000 is arrived at, considering the Complainant requests a value of $3,500,000.

c) The Respondent questions the Complainant's calculation of the $3,500,000, by using a cap rate of 18% on the actual rent. The Respondent notes the lease was signed in 1994 and a previous CARB decision and a previous LARB decision disregarded the 1994 lease.

d) The Board should note that the City of Calgary has registered a purchaser's interest in the subject property. The City has paid the owner a deposit of $10,761,746. Question to the Board should be: "Why would the City pay nearly $11,000,000 deposit for the property? The Respondent pointed out that the value is likely to be more than the current assessment of $11,200,000 not less.

e) The Respondent will review the current lease in place on the subject property. The lease is a 1994 lease and would not represent value for the subject as of July 1st 2011. This lease would not be used in the preparation of the subject assessment or any other similar property in Calgary.

f) The Respondent will show that the Renfrew Chrysler site sold for $5,500,000 in 1998 and land value has increased 6 to 7 times since 1998. This will show the subject assessment is conservative and reasonable.

g) The Respondent will show that the current lease on the subject property is not representative of the market.

h) The Respondent will reference MGB Decision No. 0098 633/10 which showed that properties that are contaminated can be sold. The Board's decision was to reduce the assessed value to the sale price. The Respondent states that this is vastly different from the subject case where no sale of the subject property is available. The Respondent notes that the City will present sales of properties showing that the assessment is most likely conservative.

[44] The Respondent advised the Board of how the assessed value was arrived at. The land was valued @ $60 pers square foot (psf) for the first 20,000 /ft^2 and $28 for the balance. The City awarded the subject property 5% corner lot influence and deducted 30% for environmental concerns giving a total negative influence of 25%. Using Marshall and Swift's calculations, the two buildings replacement cost was $1,143,732. The adjusted land value worked out to $10,057,722 giving a total of $11,201,454 for the subject property (Exhibit R-1 pages 10-13).

[45] The Respondent provided photographs and location maps of the subject property showing that car dealership was operating on the contaminated site (Exhibit R-1 pages 14-24).

[46] The Respondent advised the Board that the City of Calgary did have a purchaser's interest in the subject property (Exhibit R-1 pages 26-31).

[47] The Respondent advised the Board regarding the Assessment Request for Information (ARFI) that stated the lease was signed in 1994 (Exhibit R-1 pages33-35).

[48] The Respondent advised the Board that the lease amending and extension agreement was signed in September 2009 and the original lease was signed in 1994. The Respondent noted that the lease rate for the amending and extension agreement signed in 2009 was the same as in 1994. The net rental of $530,000 for the year 2011 is still the same as was in 1994. The lease is not a new lease as the Complainant states, but really a lease extension. Seventeen years later, the yearly rental rate has not changed over the period of time (Exhibit R-1 pages 36-74.

[49] The Respondent advised the Board regarding a comparable car dealership in proximity to the subject property. The comparable sold for $5,500,000 in 1998 and was a contaminated site at the time of the sale. The City assessed the comparable in the same manner as the subject property using the cost approach for land and Marshall and Swift for the buildings. There has been no assessment increase during the past year, the same as the subject property. The Respondent advised the Board that the comparable had increased significantly since 1998 (Exhibit R-1 pages 78-97).

[50] The Respondent provided the Board with three sales in the Beltline showing the average selling price per square foot is $79 and the median is $85 selling price psf. All the sales ocurred in 2010 and had some degree of contamination with the sites (Exhibit R-1 pages 98-155).

[51] The Respondent provided a chart with 2012 retail lease comparables for automobile dealerships. The average 2010 rental rate for the car dealerships is $18.26 psf and the median 2010 rental rate for the car dealerships is $17.16 psf. The Respondent noted that Metro Ford being 5-6 blocks away is paying $14.33 psf. The subject property is paying $9.67 psf (Exhibit R-1 page 156).

[52] The Respondent provided a cap rate study from both Colliers and CB Richard Ellis (Exhibit R-1 pages 179-183).

[53] The Respondent advised the Board of the decision CARB 2640/2011-P, it being the same property that was appealed in the previous year. The Respondent noted the decision was to confirm the 2011 assessment, but the CARB decision is under appeal with the Queen's Bench.(Exhibit R-1 page 185).

[54] The Respondent advised the Board of the decision LARB 0268/2011-B, it being the same property, however it was the business assessment being appealed. The Respondent advised the Board that the LARB confirmed the 2011 business assessment (Exhibit R-1 pages 199 -204).

[55] During argument and summation, the Respondent advised the Board of the *Municipal Government Act,(MGA)* and a number of legislative sections that are applicable to the hearing:

1. section 467(3) states:

an assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(a) the valuation and other standards set out in the regulations,

(b) the procedures set out in the regulation,

(c) the assessments of similar property of businesses in the same municipality.

[56] The Respondent advised the Board that s.(467) (3) differs from the assertion of the Complainant.

2. section 285 states :

Each municipality must prepare annually an assessment for each property in the

municipality, except linear property and the property listed in section 298.

3.section 1(n)

"market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

284(1)(r) "property" means

(i) parcel of land,

(ii) an improvement,or

(iii) a parcel of land and the improvements to it:

4. Matters Relating to Assessment and Taxation Regulation AR 220/2004(MRAT).

Section 1(k) "mass appraisal" means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing;

[57] The Respondent advised the Board that the City was following the legislation, regarding the assessment process.

[58] In addition, the Respondent stated the Complainant did not provide any market data or sales comparables to prove the City is incorrect. Wilthout any market data or sales comparables,the Complainant used opinion and conjecture.

[59] During argument and summation, the Respondent advised the Board to look to the previous decisions, CARB 2640/2011-P and LARB -268/2011-B, as both dealt with the subject property.

[60] During argument and summation, the Respondent stated the Complainant had not provided sufficient evidence and in the opinion of the Respondent, the Complainant had not met onus.

[61] During argument and summation, the Respondent notes that the owner is not here complaining about anything. The Complainant is representing the tenant.

[62] During argument and summation, the Respondent advised the Board that the Complainant was using dated evidence and there was really no current evidence brought before the Board.

[63] In conclusion, the Respondent is well aware the subject property is contaminated, but the Respondent has allowed for that in the assessment. The Respondent is requesting the Board to confirm the 2012 assessment of $11,200,000 as being fair and equitable.

Board's Decision:

[64] The decision of the Board is to confirm the 2012 assessment of $11,200,000.

Reasons for the Boards Decision:

[65] The Board notes that both parties agree the site is contaminated. The question then becomes, to what extent and how does the contamination affect the market value?

[66] The Board is puzzled that the Complainant requested an assessment amount of $7,000,000 on the complaint form, but all the subsequent evidence is supporting $3,500,000.

[67] The Board recognizes the income approach is a valid methodology for establishing market value. However, the figures calculating the value to be $3,500,000 with the income approach are suspect. The Board notes the rental rate of $530,000 has not varied for approximately 17 years. The Board has difficulty in believing that the $530,000 is considered market rent today after so many years. In addition, the Board was provided little evidence supporting the 18% cap rate. The only reference the Board could find regarding the 18% was the reference in CARB 2640/2011-P alluding to a MGB decision regarding a 1999 Edmonton appeal. The Complainant provided no justification nor market evidence to support the 18% cap rate. The Municipality is legislated to assess properties under mass appraisal approach using typicals such as lease rates, cap rates etc.

[68] The Board was persuaded by the Respondent's lease rate chart for car dealerships that showed the average and median of $18.26 and $17.16 psf respectively. The Board notes the subject property is only paying $9.67 psf, much less than the average for other car dealerships.

[69] The Board agrees with the Complainant regaring the Respondent's sales comparables as they appeared to be non-arms length in nature and the Board put little weight on this evidence. The sales appear not to meet the definition of market. There was no evidence that the properties in question had been listed on the open market.

Section 1(1) of the *Municipal Government Act (MGA),* defines "market value" as: the amount that a property, as defined in section 284(1)(r), might be expected to realize if it sold on the open market by a willing seller to a willing buyer;

Section 284(1)(r) of the *MGA* states:

(r) "property" means

(i) a parcel of land

(ii) an improvement, or

(iii) a parcel of land and the improvements to it;

[70] However, the Board, not knowing the details of the sale of the subject property to the City of Calgary, put some weight on the fact that the City paid a deposit approximating $11,000,000.

[71] The Board did not accept the Complainant's assertion that the subject property site was "sterile." The Board accepts as fact that the subject property site is contaminated, as do both the Complainant and the Respondent. However, the subject property site has had an ongoing business enterprise operating on the subject property for a number of years, making the assertion of "sterile" questionable. Neither party put forward a definition of what "sterile" means in these circumstances.

[72] The Board notes the Complainant's issue regarding the huge assessment increase from

2010 to 2011. The Board notes that assessments from year to year are independent of any other year. The Board notes that each year's assessment is to be independent of previous assessments, and the mere fact of a large percentage increase without more evidence is not enough information to draw the conclusion that an assessment is too high.

[73] The Board notes the Complainant did not provide any market data or sales comparables to suggest the City is incorrect.

[74] Jurisprudence and legislation establish the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence to support the incorrectness of the assessment.

DATED AT THE CITY OF CALGARY THIS 3 **DAY OF** October **2012.**

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C-1 Binder (10 tabs)	Complainant's Disclosure
2. C-2 one page	Complainant's Evidence
3. R-1 206 pages	Respondent's Disclosure

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.