

**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:

Stadium Nissan, Greg Bates (AEC International Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

D. Trueman, PRESIDING OFFICER

Y Nesry, MEMBER

D Morice, MEMBER

This is a complaint to the Calgary Composite 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: 044183804

LOCATION ADDRESS: 2420: Crowchild Trail NW

HEARING NUMBER: 63992

ASSESSMENT: \$4,550,000

This complaint was heard on 16th day 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:

- *Adam Payn*

Appeared on behalf of the Respondent:

- *Brenda Thompson, Tyler Johnson*

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

There were no issues of procedural or jurisdictional nature with respect to this hearing.

Property Description:

The subject property is an automobile dealership known as Stadium Nissan constructed in 1985. It is located in the Northwest quadrant of the City in the Banff Trail community. Improvements on the land total 22,100 ft.² and the land base is 2.05 acres, having an irregular shape. Since 1985 the improvements have been renovated in order to keep up with company branding and to otherwise stay competitive.

Issues:

The complainant agreed that the cost approach to value was the correct technique in valuing the subject property for assessment purposes however, within this approach he did not agree that two of the fundamental components have been correctly determined, and these were:

- 1/ Land value,
- 2/ Depreciation

Complainant's Requested Value: \$2,491,000

Complaints position

Issue #1 Although the subject property is zoned C-COR2 the complainant presented a chart of nine sales which occurred in 2009 and 2010, advising the Board that land value is critical in the preparation of a Cost Approach to Value for assessment purposes. These value indicators were zoned IB, IC, C5 and C6. He pointed out that two of the sales had been purchased by Auto Dealers. The complainant further testified that he had been advised by the City Planning Department that, for a flat fee of \$6000, IB zoned property could be redistricted to accommodate a major automobile dealership. He said that it was not a "snap your fingers" type of request but that he had based his opinion of value on the potential for this zoning change to take place. His chart of comparable sales suggests an average selling price of \$783,757 per acre however the parcels which had sold to auto dealers sold on average for \$755,715 per acre and this he said would be the best indication of value for the subject lands.

Issue #2 The complainant suggested that the assessor had based his depreciation estimate, which is integral within to the Cost Approach to Value, on an economic life estimate of 30 years. The complainant presented evidence at page 32 of exhibit C1 that the Assessment Review Board of Brockville, Ontario reduced the assessment for an automobile dealership based upon the owner's assertion that 20 years was a more appropriate economic life for an automobile dealership. This was based upon the critical requirements for competitiveness and branding to be at all times at current standards for new automobile sales and service establishments. The complainant used Marshall and Swift, July 2010 building costs, together with an agreed effective age of 13 years, on a 20 year economic life for depreciation, resulting in a net improvement value of \$941,316. This when added with his land value, based upon \$755,000 an acre, resulted in his requested assessment amount of \$2,491,000.

Respondent's position

Issue #1 The respondent countered the complainants land sales chart by presenting a chart of seven sales occurring from August 2008 to March 2010 which, she said more importantly were of all C-COR zoned properties. The average sales amount, on a per square foot basis, for these sales was \$72.43 per sq ft or \$3,155,050 per acre. The respondent testified that in order to provide an adjustment for varying size land bases connected with automobile dealerships the City typically assessed the first 20,000 ft.² of land base at \$65 per Sq. foot and the remainder at \$28 per Sq. foot. They were further critical of one of the complainant's best comparables, which was zoned for an automobile dealership however, the applicable zoning bylaw described this site as "vehicle sales minor" which according to the City allowed for a maximum vehicle count on this site of six.

Issue #2 The City provided their Marshal and Swift certified Mr. Tyler Johnson who testified that depreciation had been applied to the subject improvements somewhat more thoughtfully. He said that Marshall and Swift proposed that automobile dealerships would typically have a 30 year to 50 year life. He said that there were three components to the subject improvements and that the showroom component was constructed in 1985 with a renovation in 2006. He said that the service department component was also built in 1985 with a renovation in 2006 and that in 2004 a second building had been build which at the present time was housing a car wash. He said that given this information he was of the opinion that for the 2011 assessment a total economic life of 40 years was appropriate and when applying the agreed 13 year effective age an improvement value of \$1,150,023 is indicated.

Complainant's rebuttal position

The complainant suggested that the respondent's evidence was not credible because there were no time adjusting factor's for their sales which had occurred more than one year prior to the valuation date. He said that their analysis of market indicators evidenced flaws because their indicator at 8306A Horton Road SW was in fact going to have an office building constructed upon it. Further, their indicators were either too small or too large to be instructive. See document C2

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

Issue #1 The Board preferred the evidence of the respondent, who presented sales which were zoned similar to that of the subject; meaning that uses identical to that of the subject could be made of these lands thus generating similar values. The Board understood that the comparables put forward by the complainant were perhaps locationally similar to the subject however, the complainant's assertion that a zoning change was available for a flat fee was at best questionable.

Issue #2 The Board understands that the retail business community in general, certainly not limiting out automobile dealerships, requires an up-to-date appearance in order to maintain and enhance competitiveness. However, the Board also understands that for assessment purposes, based upon the Cost Approach to value, a well supported estimate of total economic life is critical to the calculation of an accurate depreciation estimate. The panel was not persuaded that an economic life, based upon a decision of an Assessment Appeals Court, in Brockville Ontario, was adequate support for such an estimate. The panel found that the geographic and population differences provided an element of uncertainty. Rather, because Marshall and Swift information was available, and was presented in a cogent fashion by a certified specialist, the panel deemed this to be the more applicable information for the purpose of this issue. Marshall and Swift are an internationally accepted source for such information.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$4,550,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF SEPTEMBER, 2011.


D. Trueman
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent 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.*

For MGB Administrative Use Only

Decision No. 1920-2011-P		Roll No. 044183804		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Stand Alone	Cost Approach	Land Value

For MGB Administrative Use Only

Decision No.		Roll No.		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Stand Alone	Cost Approach	Depreciation