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:

1204612 Alberta Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. McEwen, PRESIDING OFFICER
S. Rourke, MEMBER
J. Pratt, 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: 090086604

LOCATION ADDRESS: 404 MANITOU RD SE

HEARING NUMBER: 60565

ASSESSMENT: $1,310,000

This complaint was heard on the 9th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, AB, Boardroom 3.

Appeared on behalf of the Complainant:

- K. Punia

Appeared on behalf of the Respondent:

- P. Sembrat

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

Both parties requested that the evidence, argument and Board decision from Hearing # 60563 be applied to the current hearing as well. There were no other jurisdictional or procedural matters raised by either party.

Property Description:

The subject property is a .66 acre parcel located in the North Manchester district of SE Calgary. The site is improved with a 7,580 square foot multi-tenant warehouse/office building.

Issues:

Is the subject property assessed higher than market value and is the assessment, therefore, inequitable to comparable properties?

Complainant's Requested Value:

$795,000

Board's Findings and Reasons in Respect of Each Matter or Issue:

The Board finds the Complainant's evidence insufficient to reduce the subject assessment for the following reasons:

- The sale of the subject property on June 8, 2010 and amended on August 19, 2010 (C1) is not accepted by the Board as a clear enough indicator of market value to support a reduction in the subject assessment. The subject sale included a second property at 5339 1A ST SW and, although the amending agreement established a discrete value for each of the properties, the support for the derivation of the attributed values is not in evidence.
- The subject sales transaction involved a Vendor Take Back (VTB) mortgage with a mortgage rate significantly higher than market. The Board finds the higher mortgage rate and its potential influence on the subject sale price, troubling.
- The subject sale was a direct sale between two parties, without exposure to the open market.
- The Complainant has not provided the Board any comparable sales evidence to support the sale price of the subject property.

- The Respondent provided five equity comparables that support the fair and equitable assessment of the subject property.

In summary, while none of the atypical elements of the subject sales transaction necessarily invalidates the sale as a reliable indicator of market value, the combination of elements raises the burden of proof for the Complainant to convince the Board that the subject sale should be accepted as such an indicator. In the absence of comparable sales evidence to validate the subject's selling price, the Board confirms the subject assessment.

Board's Decision:

The subject assessment is confirmed at $1,310,000.

DATED AT THE CITY OF CALGARY THIS 22nd **DAY OF** September **2011.**

C. McEwen

C. McEwen
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. C1 (60563)	Complainant Disclosure
2. R1	Respondent Disclosure
4. R1 (60563)	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.*