Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act (MGA)*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

J E C Enterprises Inc.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
P. Charuk, BOARD MEMBER
K. Farn, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	**385000500**
LOCATION ADDRESS:	**1221A 128 AV NE**
FILE NUMBER:	**73348**
ASSESSMENT:	**$601,500**

This complaint was heard on the 16th day of September, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *K. Fong*

Appeared on behalf of the Respondent:

- *N. Domenie*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject is a triangular shaped, 23.90 acre parcel of undeveloped land lying south of the 128 Avenue alignment, east of the Coventry subdivision in NE Calgary. In this location, 128 Avenue is physically non-existent. The C.P. Rail right-of-way forms the subject's east boundary. The land is designated Special Purpose- Future Urban Development (S-FUD), in accordance with City of Calgary Land Use Bylaw.

[3] The subject is assessed using the Sales Comparison Approach to value and is considered an industrial/agricultural property. Accordingly, the subject is assessed in accordance with the procedure as set out in *section 4* of the *Matters Relating to Assessment and Taxation Regulation (MRAT)*. The assessment is made up of three acres assessed at the City's market value rate of $200,000 per acre, and the remaining or residual land at a farmland rate of $84.15 per acre.

Issues:

[4] The CARB considered the complaint form together with the representations and materials presented by the parties. However, as of the date of this hearing, the following issue remained in dispute:

a) The City of Calgary has restricted the subject's development for future use and therefore the assessment should be based on 100% farmland.

Complainant's Requested Value: $2,010

Board's Decision:

[5] The complaint is denied and the assessment is confirmed at $601,500.

Legislative Authority, Requirements and Considerations:

[6] *As in accordance with MGA 467(3), a CARB 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 regulations, and*

c) *The assessments of similar property or businesses in the same municipality.*

[7] *MRAT:*

Valuation standard for a parcel of land
4(1) The valuation standard for a parcel of land is
(a) market value, or
(b) if the parcel is used for farming operations, agricultural use value.
(2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's Guidelines.
(3) Despite subsection (1)(b), the valuation standard for the following property is market value:
(d) an area of 3 acres that
(i) is located within a parcel of land, and
(ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;
(4) An area referred to in subsection (3)(c), (d), (e) or (f) must be assessed as if it is a parcel of land.

Position of the Parties

ISSUE 1: The City of Calgary has restricted the subject's development for future use and therefore the assessment should be based on 100% farmland.

Complainant's Position:

[8] The Complainant provided a disclosure document that was entered into the hearing as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence and argument with respect to this issue:

[9] A series of overhead maps and pictures the subject property. The pictures and maps clearly outlined the shape, position and location of the subject relative to the five neighbouring and similarly assessed properties at:

a) 13311 15 ST NE,

b) 1350 128 AV NE,

c) 1430 128 AV NE,

d) 2202 128 AV NE, and

e) 2221 128 AV NE.

[10] A copy of an email dated July 31, 2013 from a Mr. Faltous indicating that the subject and neighbouring properties were still being used for farming operations as in the previous year.

[11] A copy of S-FUD Land Use guidelines. The guidelines indicated that S-FUD designated properties are lands:

a) awaiting urban development,

b) are protected from premature subdivision,

c) provide for a limited range of temporary uses, and

d) can accommodate extensive agricultural uses prior to urban development.

[12] Six 2012 CARB decisions, including subject and the five neighbouring properties referenced above. The Complainant requested the CARB review those decisions as the same evidence and argument was provided in the 2012 complaints. The 2012 CARB decisions formed the basis of the Complainant's requested assessments for the current year.

[13] Copies of the Assessment Request for Information – Farmland (ARFI) for the subject and the neighbouring five properties. The ARFIs indicated that all the properties were still being used for agricultural purposes.

Respondent's Position:

[14] The Respondent provided a 41 page disclosure document that was entered during the hearing as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[15] A copy of the 2013 assessment of the subject. The assessment indicated that 3.00 acres were valued at market value and accordingly were applied a rate of $200,000 per acre while the remaining or residual land was assessed as farmland at $84.15 per acre. The Respondent argued the assessment was in accordance with *MRAT section 4(3)(d).*

[16] A colour overhead photograph of the subject showing marked water and sewer distribution lines adjacent to the subject's perimeter.

[17] 2013 assessments of three S-FUD designated equity comparable properties located at:

a) 1350 COUNTRY HILLS BV NE,

b) 12421 15 ST NE, and

c) 10220 6 ST NE.

The Respondent argued that the three equity comparables were assessed in the same manner as the subject.

CARB Findings:

The CARB finds the following with respect to this issue:

[18] That water and sewer distribution lines are located in land that is adjacent to the subject parcel.

Board's Reasons for Decision:

[19] The CARB finds that the subject complies with *section 4(3)(d)(ii)* of *MRAT* and accordingly must be assessed an area of 3 acres at market value. The land rate of $200,000 per acre was not challenged.

DATED AT THE CITY OF CALGARY THIS 23 **DAY OF** October **2013.**

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1) C1	Complainant Disclosure
2) 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 Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Other Property Types	Vacant Land		