



2021 November 15

To: Mayor and Members of Council

From: Carla Male, CFO and Eddie Lee, Acting Director/City Assessor

Re: Administrative Inquiry – Assessment Reform (Cllrs. Chu and Farkas)

The following information is Administration's response to the Administrative Inquiry received during the 2021 July 26 Combined Meeting of Council. Administration's response is limited to matters within The City's scope. The Assessment Review Board (ARB) is a separate and independent body established in accordance with the *Municipal Government Act* (MGA) and has provided a separate response on matters within their scope. The ARB's response is attached here for Council's convenience.

Property assessment is a complex and highly regulated process that provides the basis for the fair and equitable distribution of property taxes. As noted in the Administrative Inquiry, the 2018 Heuristic Report detailed an independent review of Calgary's non-residential property assessment and complaint systems and made recommendations for improvement. The Assessment Business Unit has since made significant reforms, adopting all recommendations within its scope.

Response to Administrative Inquiry Questions

1. In years past, those testifying at an assessment hearing at the Calgary Assessment Review Board were sworn in, and provided evidence, under oath. This was recently changed. Why is the assessor no longer required to testify under oath?

Assessment defers to the attached ARB response on the matter of hearing procedures.

Regardless of whether an oath is required or not, all City assessors are required to follow City policies including The City's Code of Conduct. Violations of City policy may lead to disciplinary action including dismissal. All assessors are also members of the Alberta Assessors' Association, a professional organization that regulates the practice of assessment. Professional conduct violations can be reported and if substantiated, may lead to sanctions such as fines, mandatory education/training, suspension or cancellation of membership. If there are concerns that an assessor has presented false or misleading evidence, this should be reported to Assessment through the [contact information](#) on our website, through The City's [Whistleblower Program](#), and/or to the [Alberta Assessor's Association](#).

2. The duty of an assessor according to the Alberta Assessor Association Code of Ethics & Conduct, is to provide independent objective evidence before a judicial or quasi-judicial inquiry. The assessor is not to appear as an advocate for one party or the other. At the Assessment Review Board, why is the assessor not required to present all

evidence from past Assessment Review Board decisions, not just that which supports their argument?

Assessors in Alberta are governed by both the *Municipal Assessor Regulation* and The Alberta Assessors' Association Code of Conduct & Ethics. Assessors are responsible to prepare fair and equitable assessments in accordance with the legislation and to explain assessments with honesty and respect including at ARB hearings. Evidence presented at ARB hearings often considers past ARB decisions but may not always be exhaustive of all past decisions. It would be administratively inefficient for The City to present all past ARB decisions for every file for every hearing; however, complainants have the ability to respond to The City's evidence disclosure if they feel relevant considerations including past ARB decisions have been missed. ARB decisions are publicly available via the Canadian Legal Information Institute (CanLII): <https://www.canlii.org/en/ab/ab/cgyarb/>.

3. A full and complete Property Assessment Information Package to explain the assessment and ensure transparency is no longer available to the taxpayer. Why is the burden of proof on the taxpayer to prove the Assessment Business Unit wrong if they want to contest assessment, when taxpayers do not have the benefit of knowing how the assessment was arrived at?

The provincial government made recent changes to the *Municipal Government Act* (MGA) relating to the disclosure obligations of municipalities in Alberta. The City has aligned their practices with the province's requirements and provide all the information a property owner might require to determine whether the assessment of their property was fair and equitable as required by the Act. Assessment provides property assessment details and market information through the [Assessment Search](#) tool on The City's website, as well as [comprehensive information](#) about how we assess different types of properties. This includes explanation of the many factors that may affect a property's market value. Assessment now also produces Market Trends documents, which contain similar information to the previous Property Assessment Information Package.

Court decisions have established that the "burden of proof" is on the taxpayer, and the process for evidence disclosure set out in the *Matters Relating to Assessment Complaints Regulation* (MRAC) aligns with this principle. This was also previously considered during the most recent MGA review. When a property owner makes a complaint to the ARB, the requirement for the complainant to submit their evidence first helps Assessment to narrow down the issues at hand for administrative efficiency. Usually, property owners have a specific concern about their assessment. If the "burden of proof" was placed on The City, then every detail would have to be proved from the size of the home, any renovations, lot size, etc. This would significantly increase the cost of providing the property assessment service. When Assessment knows the specific reason a property owner feels their assessment is incorrect, we can be more efficient and helpful in providing relevant information to explain the assessed value or resolve the concern.

4. By changing a business' classification, or sub-classification, an assessment can change dramatically. The Assessment Business Unit supposedly eliminated the "public assembly space" classification because there were not enough "public assembly" spaces to justify the work assess them every year. One could argue this change was made to uplift these properties to the more lucrative "retail space" classification. Why was this decision made, when there are clearly hundreds of public assembly spaces like

movie theaters, churches, synagogues, mosques, banquet halls, association halls, clubs, and others?

The purpose of grouping properties together is to enable mass appraisal. Labels such as retail, office or public assembly are used to group similar properties or similar spaces within properties together. When grouped together appropriately, mass appraisal with the goal of achieving market value estimates of those properties becomes easier and more accurate. Each year, some properties and spaces within properties may be reclassified based on changes within the property, changes to market dynamics or simply due to previous classifications becoming more or less accurate over time. Classifications are never changed with the goal of increasing values but rather to group similar properties together so that our market value estimates are more accurate. Information about property assessment, including the property details, factors and descriptions used to prepare an assessment is available on our [website](#) and on [Assessment Search](#).

5. Does the city's process for applying the "highest and best use argument" to raise property assessment use the North American industry standards based on four real estate criteria: "the use must be legally permissible, physically possible, financially feasible, and achieve maximum productivity?" If not, why are there differences?

When assessing properties at market value, City assessors do consider the principles listed above within the legislated requirements to use mass appraisal and in accordance with industry standards and best practices. Assessors have specialized education and training and The City's assessment practices are annually subject to internal, external and provincial audits.

6. Why does the Assessment Business Unit disregard previous Assessment Review Board decisions reducing taxes on properties, forcing property owners to continually appeal? The recent 2020 decision the Calgary Petroleum Club is a prime example. The January 2021 assessment of the Calgary Petroleum Club by the Assessment Business Unit ignored the Assessment Review Board decision which only months earlier reduced the Calgary Petroleum Club previous year's assessment and reducing taxes by approximately 30%.

The ARB is an independent and impartial tribunal that hears and resolves assessment complaints by property owners. Although Assessment endeavors to come to a consensus with property owners about their assessments, we recognize that this isn't always possible, and we value that there is a mechanism in place to help fairly resolve such issues. All ARB decisions are reviewed to inform future assessments.

A property that received a reduction at the ARB in a previous year might see a change in subsequent years because market value property assessments, conducted annually in accordance with provincial legislation, reflect market changes. Assessment receives new market information every year, which is then used to prepare the annual property assessment. This means that a decision the ARB made in a previous year was based on older market information. While some of this information may still be used, some of the information may have also been phased out as new market data is analyzed. In addition to reviewing ARB decisions and new market information, Assessment annually reviews valuation methodologies and processes as a matter of best practice.

Through collaboration with property owners and explaining assessments, Assessment has reduced year-over-year consecutive ARB reductions by 78% since 2017.

7. There are significant concerns about the impartiality of panels predominantly made up of ex-Assessment Business Unit assessors. What protections exist for taxpayers to ensure that the constitution of Assessment Review Board's 3 member panels are impartial, as per their intended design?

Assessment defers to the attached ARB response on this matter. Assessment does not have a role or any influence in ARB appointments or panel composition.

8. What is the City of Calgary's process following Court of Queen's Bench decisions finding clear evidence of a lack of duty of care or signs of malfeasance? Is there a requirement for the City to conduct a review, apply disciplinary action against the assessors or Assessment Review Board members involved, or ensure the Assessment Business Unit redraft policy on the issue?

The City addresses concerns about employee misconduct in accordance with City policy and collective agreements, as applicable.

If there are concerns that a City employee has exhibited misconduct, this should be reported to Assessment through the [contact information](#) on our website, through The City's [Whistleblower Program](#), and/or to the [Alberta Assessors' Association](#).

9. What steps does the Assessment Business Unit take to ensure any Assessment Review Board hearing presents a full and complete case to the Board? Are there mechanisms in place to help those who are appealing navigate the procedures and due dates? What justifies the deadlines prohibiting taxpayers from introducing evidence in their own favour?

The ARB is responsible for setting and implementing their procedures which are subject to provincial regulations, including the *Matters Relating to Assessment Complaints Regulation* (MRAC). Assessment defers to the attached ARB response on the rationale for their procedures and due dates and ways they may support property owners to navigate these.

To support property owners within Assessment's scope, we do the following:

1. Mail an [Assessment Notice](#) to every property owner providing the assessment, information on how to review the assessment, contact information to discuss the assessment and information on how to file a complaint, including complaint deadlines and ARB contact information;
2. Provide detailed assessment information on The City's website including the [Assessment Search](#) tool enabling property owners to learn about the property details used to prepare the assessment, compare assessments of similar properties to ensure fairness and review real estate market trends and learn how properties are assessed;
3. Host the [Pre-Roll Consultation Period](#) in the fall in advance of assessments being mailed in January so non-residential and multi-residential property owners can review their preliminary assessment values, share new information about their property and learn potential tax implications;
4. Offer the [Customer Review Period](#) in advance of the ARB complaint deadline to help property owners review their property assessment. During this period, City assessors

are available to work collaboratively with property owners to explain the process and discuss real estate data used in determining their property's value and make corrections as needed;

5. Share information on [The City's website](#) about how to file a complaint, including links to the [ARB website](#).

10. There was formerly a two-tiered complaint process whereby a taxpayer's initial complaint was heard at the Assessment Review Board. If either party was dissatisfied, they could appeal to the Municipal Government Board. When this two-tiered system was eliminated, the taxpayer was faced by the prohibitively expensive route of going to the Court of Queen's Bench to further an appeal. Why was the two-tiered system eliminated?

The province made amendments to the MGA in 2010 that eliminated the Municipal Government Board (MGB) level of appeal creating the system we have today. Information about the provincial rules governing property assessment complaints and appeals is available on the Government of Alberta's website: <https://www.alberta.ca/property-assessment-complaints-and-appeals.aspx>.

Regarding Specific Cases

The Administrative Inquiry mentions two additional cases which we would like to address:

1. A 2018 [Court of Queen's Bench decision](#) addressed a complaint regarding business tax assessments for the Metropolitan Centre, owned by Howard Silver, named in the Administrative Inquiry. In this decision, Justice Gates cancelled 2014 and 2015 ARB decisions for this property and referred them back to the ARB. Assessment also adjusted its methodology for valuing the spaces in question and the matter has not been re-heard since. Of note, the Metropolitan Centre case was considered as part of the independent, third-party investigation into Calgary's assessment complaints system that resulted in the Heuristic Report and significant reforms, as detailed above.
2. The Administrative Inquiry mentions a constituent that experienced an increased year-over-year property tax bill in 2021. Councillor Farkas' office contacted Assessment about this property in late June 2021. Assessment responded at that time that the property had previously been classed as residential. A review of the property revealed that it is actually an operating non-residential property and this resulted in a correction to the appropriate tax rate. Assessment understands that these kinds of changes can sometimes be surprising to property owners. We are continuously working to improve how we proactively communicate to give advance notice and hear input on changes that will affect their property assessment and tax bill. Property owners are encouraged to contact Assessment with any questions or concerns about their assessment.

Attachment: Assessment Review Board's Response to Administrative Inquiry