

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Skyline Land Holdings Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER

J. Massey, MEMBER

J. Kerrison, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 201152964

LOCATION ADDRESS: 4500 8A St. NE

HEARING NUMBER: 56652

ASSESSMENT: \$4,000,000

This complaint was heard on 14th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #4.

Appeared on behalf of the Complainant:

- Mr. L. Drebit (Skyline Land Holdings Inc.)

Appeared on behalf of the Respondent:

- Mr. M. Berzins (The City Of Calgary)

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

NA

Property Description:

The subject property is an industrial property containing two Quonsets and two warehouse buildings constructed in 1971 and 1980 respectively. The subject property is located in the "Greenview Industrial Park" district of SE Calgary. The buildings have a net rentable area of approximately 21,656 square feet (SF). The buildings are situated on an assessable land area of approximately 149,193 SF.

Issues:

- 1) The Respondent used an approach to value the subject property that does not result in a correct assessment value,
- 2) The property contains several easements, caveats, right of ways and zoning regulations that severely restrict the subject property's use and therefore does not support the assessed value,
- 3) When compared to other properties in the area the subject's assessment value is inequitable.

Complainant's Requested Value:

\$2,500,000

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

- 1) Issue 1 (as above).
 - a) The Complainant's evidence.
 - i) The Complainant provided information regarding the subject property's recent past, and current status with regards to its condition and use. The information states that the subject property was owner occupied until May 22, 2009.
 - ii) The Complainant has been trying to sell the subject property since early 2008 but has been unsuccessful. During questioning, it was revealed that the asking price for the subject property has gone from \$4.5 million to \$3.5 million.
 - iii) The Complainant was able to successfully lease the subject property to a third party in January, 2010 and will realize rental income beginning June, 2010. The

Complainant provided a copy of the lease agreement between Skyline Land Holdings Inc. (the Landlord) and Norex Exploration Services Inc. (the Tenant), which states an annual rental income of \$195,000 per annum will be realized by the Landlord. It is the opinion of the Complainant that the property should be valued on the Income Approach to value since they have been unsuccessful in selling the property and have only been able to rent it. Using a capitalization rate of 8.25% to the annual income the Complainant feels a value of \$2.5 million is fair and equitable.

- iv) The Complainant supported his capitalization rate using third party market analysis with a Capitalization Rate Report from Colliers International for the 2nd quarter of 2009.
- v) The Complainant provided an inter-company (non-arms length) sales document dated March 30, 2010 between Skyline Land Holdings Inc. (the Seller) and Skyline Greenview Holdings Inc. (the Buyer). This document attempted to support the Complainant's view of value for the subject property.

b) The Respondent's evidence.

- i) The Respondent provided information on three approaches to value that the City of Calgary Assessment Business Unit uses in assessing value of various properties:
 - (1) The Sales Comparison Approach, "that compares assessed properties with similar properties which recently sold";
 - (2) The Income Approach, "that involves developing typical market rents, vacancies, costs, and capitalization rates in order to place a value on a group of properties; or"
 - (3) The Cost Approach, "which reflects a replacement cost new less market depreciation for the improvements plus the market value for land".
- ii) The Respondent provided information that explains that industrial warehouse properties such as the subject are valued using the sales comparison approach because of the abundance of market sales. This approach is supported by third party valuers and appraisers and it is used consistently by the Respondent to value comparable properties to the subject.
- iii) During questioning the Respondent revealed that the income approach to value is unreliable in valuing industrial properties similar to the subject because of the abundance of owner occupied buildings. The high incidence of owner occupied industrial warehouse buildings of this kind lead to unreliable lease rates that would be applied to the income approach to value.

c) In reviewing the information provided by both parties the Board finds:

- i) That the Respondents sales comparison approach to value is consistently applied to comparable properties to the subject and therefore is fairly and equitably applied to the subject.
- ii) The asking price for the subject property has been listed for sale by the Complainant during the assessment period between \$4.5 million and \$3.5 million. This indicates to the Board that the Respondent's assessed value of \$4,000,000 is reasonable and supports the Respondent's valuation method.

2) Issue 2 (as above).

a) The Complainant's evidence.

- i) The Complainant provided a copy of a Land Title Certificate that indicated several restrictive covenants, easements, zoning regulations and right of ways affecting the property.

- ii) A map detailing the encumbrances affecting the property include:
 - (1) A Mutual Access Agreement which affects the west side of the property,
 - (2) An Overland Drainage Easement and Restrictive Covenant affecting the entire property, and
 - (3) Utility Right of Way also affecting the west side of the property.
 - iii) A copy of the Access Agreement affecting the subject property.
 - iv) A copy of the Overland Drainage Agreement affecting the subject property.
 - v) A copy of the Utility Agreement affecting the subject property.
 - vi) A recent land purchase between the Complainant and the Respondent in February, 2007 that indicated that the land area added by the Respondent to this site would be discounted by 50% for all areas affected by the Utility Right of Way and Overland Drainage Easement.
- b) The Respondent's evidence.
- i) The Respondent provided a copy of an Assessment Explanation Supplement. The supplement explains the calculation parameters of the subject's assessment. The supplement explains that some adjustments have been made to the subject property to account for the various encumbrances affecting the property. The supplement specifically shows that:
 - (1) No assessment value was placed on the Quonsets,
 - (2) 0.58 acres of the total 3.42 acres was removed from the assessment. Therefore the assessment values the property as a 2.84 acre site,
 - (3) The site coverage was deemed by the Respondent to be 24% by calculating a building footprint of 29,701 SF over a useable land footprint of 123,710 SF. By increasing the site coverage of the subject property, the Respondent was able to lower the assessed value per SF of the buildings than they would have otherwise been.
- c) In reviewing the information provided by both parties the Board finds:
- i) That the Respondent adequately addressed most of the encumbrances affecting the subject property's assessed value.
 - ii) Although the Board considered assessing value to both buildings as if they were one building, there was not adequate evidence to prove that the assessment would materially differ from the current assessment.
- 3) Issue 3 (as above).
- a) The Complainant's evidence.
- i) The Complainant provided a listing of properties in the Greenview area attempting to compare 2009 assessed values to 2010 assessed values. The conclusion of the Complainant was that the assessment values for these properties decreased by an average of nearly 11% from 2009 to 2010, while the subject's assessed value increased almost 8% from 2009 to 2010.
 - ii) The Complainant provided his analysis of comparing assessed values per SF of properties in close proximity to the subject with the subject's assessed value per SF. The Complainant concluded that the subject property was assessed at a rate of \$184.71 per SF of building, while the other properties are assessed at a range of \$61.83 to \$131.73 per SF of building.
- b) The Respondent's evidence.
- i) The Respondent provided two charts of industrial property equity comparables for

- both buildings on site. The charts revealed that comparable properties to the smaller building were assessed in the range of \$198 to \$218 per SF, with a median rate of \$207.60 per SF, while the subject's smaller building was assessed at \$203 per SF. The comparable properties to the larger building were assessed in the range of \$170 to \$213 per SF, with a median rate of \$188.60 per SF, while the subject's larger building was assessed at \$175 per SF.
- ii) The Respondent also provided two charts of industrial property sales comparables for both buildings on site. The charts revealed that comparable properties to the smaller building had time adjusted sales in the range of \$174 to \$276 per SF, with a median rate of \$201 per SF. The comparable properties to the larger building had time adjusted sales in the range of \$173 to \$230 per SF, with a median rate of \$195 per SF.
- c) In reviewing the information provided by both parties the Board finds:
- i) That Complainant's analyses of assessments per SF of properties in close proximity to the subject were not comparable to the subject.
 - ii) That the Respondent's used properties in his analysis that were more comparable to the subject.
 - iii) That the subject was being treated fairly and equitably to the other comparable properties in assessment per SF of building.
 - iv) That the subject's assessment per SF of building was being treated fairly and equitably when compared to time adjusted sales values per SF of building.

Board's Decision:

The Board confirms the assessment at \$4,000,000.

DATED AT THE CITY OF CALGARY THIS 22 **DAY OF** July **2010.**



Michael A. Vercillo

Presiding Officer

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.*