

**CITY OF CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

BETWEEN:

AEC International Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

BEFORE:

**J. Krysa, PRESIDING OFFICER
J. O'Hearn, MEMBER
D. Pollard, MEMBER**

A hearing was convened on August 4, 2010 in Boardroom 10 at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	091018556
LOCATION ADDRESS:	3636 11A Street SE
HEARING NUMBER:	58616
ASSESSMENT:	\$11,170,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 9.02 Acre parcel of land improved with a 127,638 sq.ft. industrial warehouse constructed in 1966 with subsequent additions, and a 1,656 sq.ft. outbuilding.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

There were no procedural or jurisdictional matters raised by either party.

PART C: MATTERS / ISSUES

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount

The Complainant set out 3 issues for complaint in Section 5 of the Complaint form, with a requested assessed value of \$9,000,000, however at the hearing the Complainant identified the following issues in dispute:

Issue 1: An income analysis (approach) establishes a value of \$7,496,000.

Issue 2: An equity analysis provides a value of \$8,893,000.

Issue 3: An income approach adjusted for Contamination risk provides a value of \$7,056,000.

The Complainant requested an assessment of \$7,056,000.

Issue 1: An income analysis (approach) establishes a value of \$7,496,000.

The Complainant submitted an income approach valuation of the subject property in the amount of \$7,496,000, which equated to a unit value of \$58.73 per sq.ft. The market rent coefficient was derived from an analysis of rental rates from 10 industrial properties indicating average and median rent rates of \$5.48 and \$5.53 per sq.ft. respectively. Notwithstanding the analysis, the Complainant accepted a rent rate of \$5.25 per sq.ft. as representative of typical market rent, as determined by the City of Calgary for the business assessment net annual rental value. The vacancy allowance, operating cost, and capitalization rate coefficients were derived from 3rd party market reports, with the Complainant calculating a property tax adjustment to the operating costs of the property. [C1 pgs 17-27]

The Respondent indicated that the property was valued for assessment purposes on the direct sales comparison approach, and provided several excerpts from appraisal publications to suggest that this approach is the preferred valuation approach for this type of property, as well as several decisions of the Assessment Review Board in this regard. [R1 pgs 8, 30-39]

Decision – Issue 1

Whereas both valuation methodologies are accepted approaches to value, the Board cannot conclude that either approach establishes a more appropriate value than the other, without some form of reconciliation.

Issue 2: An equity analysis provides a value of \$8,893,000.

The Complainant submitted the assessment values per sq.ft. of five industrial properties from the Highfield market area to demonstrate that the assessment of the subject property at \$87.00 per sq.ft. was inequitably assessed. The comparable properties exhibited a range of assessed values from \$47.34 to \$84.36 per sq.ft., with average and median rates of \$69.67 and \$75.48 per sq.ft. respectively. The Complainant argued that an equitable assessment for the subject property could be established by applying the indicated average of \$69.67 per sq.ft. to the subject's 127,638 sq.ft. building area, resulting in a total (rounded) assessment of \$8,893,000 [C1 pgs 36-37].

The Respondent submitted the assessment values per sq.ft. of four industrial properties from the central region to demonstrate that the assessment of the subject property at \$87.00 per sq.ft. was equitably assessed. The comparable properties exhibited a range of assessed values from \$84.00 to \$91.00 per sq.ft. (rounded).

The Respondent further submitted an analysis of the Complainant's equity comparables indicating the site coverage (land to building ratio) of each of the comparables. It was noted that the analysis was based on significantly different building areas than the Complainant had relied on from the City of Calgary website for 4 of the 5 properties [R1 pg 23] and [C1 pgs 72-76].

Decision – Issue 2

The Board finds that the subject property is assessed equitably with similar competing properties.

Of the equity comparables presented, the Board finds that the Complainant's equity comparable at 3610-9th Street, and the Respondent's equity comparable at 1222-34th Avenue are the most similar to the subject with respect to site coverage, year of construction, and location. These properties exhibit a range of assessed values of \$84.36 to \$91.00 per sq.ft. in comparison to the subject assessment at approximately \$87.00 per sq.ft.

Notwithstanding the building area inconsistencies between the Respondent's evidence and the City of Calgary website, the Board finds that the Complainant's other four equity comparables exhibited significantly higher site coverage than the subject property, using either data source. Had this not been the case, the Board would have found the Respondent's information inconsistent and unreliable, and weighted it accordingly.

Issue 3: An income approach adjusted for contamination risk provides a value of \$7,056,000.

The Complainant submitted a materials survey report with respect to asbestos contamination within the subject property, and argued that an appropriate method to account for this impact on value would be to adjust the capitalization rate upwards from 8.0% to 8.5% in an income approach to value calculation [C1 pgs 28-32, 106-135].

The Respondent argued that as the property continues to be used at its highest and best use, and that there is no estimate of a "cost to cure", the Board should not alter the assessment. Further, it was argued that the recommendations in the report suggest that as long as the contaminants remain covered, the asbestos contamination will only be an issue during renovation, alteration or demolition, and that the immediate impact is only to train staff on asbestos awareness and safe work procedures.

Decision – Issue 3

The Board finds that there was no evidence of the impact on the value of the subject property.

As the improvement is currently functioning at its highest and best use, and there are no plans to remove the contaminants, the mere presence of this material does not confirm a loss in value. The recommendations in the materials survey report did not identify any specific remedial work that must be completed in the building, nor did it include an estimate of a cost to cure. Further, there was no evidence to conclude that with some staff training around safe work procedures, the property could not continue to be used for its intended purpose, as it is.

PART D: FINAL DECISION

The 2010 property assessment is confirmed at \$11,170,000.

Dated at the City of Calgary in the Province of Alberta, this 10 day of September , 2010



J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.		ITEM
1.	Exhibit C1	Complainant's Brief
2.	Exhibit R1	Respondent's Brief

APPENDIX 'B'**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. B. Soulier	Representative of the Complainant
2. R. Luchak	Representative of the Respondent

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.*