

**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:**

**ING DEVELOPMENTS LTD., Complainant**

**and**

**THE CITY OF CALGARY, Respondent**

**Before:**

**J. KRYSA, Presiding Officer  
J. MASSEY, Member  
I. ZACHAROPOULOS, Member**

A hearing was convened on August 17, 2010 in Boardroom 4 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:

<b>ROLL NUMBER:</b>	<b>097003107</b>
<b>LOCATION ADDRESS:</b>	<b>4315 54 Avenue SE</b>
<b>HEARING NUMBER:</b>	<b>57148</b>
<b>ASSESSMENT:</b>	<b>\$6,290,000</b>

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is a 3.73 acre parcel of land, zoned Industrial – General and improved with a 79,197 sq.ft. multi-tenant industrial warehouse with 87,492 sq.ft. of total rentable area including 11% office finish, and constructed in 1977. The site coverage is 48.7%.

**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 the following grounds for complaint in section 5 of the complaint form:

The building is in poor condition and has always suffered from vacancy.

The property has been listed for sale since early 2009 at \$6,490,000 with no interest or offers until an October 1, 2009 offer was received at \$4,250,000. This was countered at a value of \$5,400,000, without a sale resulting. Discussions with the assessor were not productive, as the assessor advised that he could not deal with specific building issues.

The Complainant requested the assessment be reduced to \$4,500,000.

The Complainant argued that the layout of the building is poor, as 41% of the total building area has a low ceiling height due to a significant amount of mezzanine construction, and only the remaining 59% of the total area is typical warehouse space. This characteristic has resulted in vacancies of 30% +/- over the last 10 years, and current vacancy is 59%. As a result of the vacancy issues, the building has not been maintained and is in poor condition [C1 pg 1].

The Complainant further argued that the recent property listing and negotiations provided evidence of a value range of \$4,250,000 to \$4,800,000, and an indicated value of \$4,525,000, and provided the following details: [C1 Tabs 1 to 3]

• Listed	Jan 2009	\$6,490,000
• Price Reduced	July 2009	\$5,490,000
• Offer to Purchase	September 2009	\$4,250,000
• Counter Offer		\$4,800,000

The Complainant also submitted the sales of 2 industrial properties in a direct comparison approach to value establishing a subject property value range of \$4,637,000 to \$5,074,000, and a capitalization approach to value range of \$3,946,283 to \$4,932,854 [C1 Tabs 4 and 5].

The Respondent submitted four sales comparables of similar properties that exhibited a range of time adjusted sale prices (TASP) of \$71 to \$103 per sq.ft. and a median of \$84 per sq.ft., in contrast to the subject assessment of \$72 per sq.ft, as well as a third party, industrial market report [R1 pg 22, and 30-38].

The Respondent submitted the assessments of five similar properties that exhibited a range of \$74 to \$82 per sq.ft. to demonstrate that the subject is equitably assessed [R1 pg 23].

The Respondent argued that the Complainant's sale comparables were inappropriate to rely on as the first sale (Tab 4) was a property built in 1941, and was not comparable to the subject as a result. The second sale (Tab 5) occurred in January 2010, well beyond the July 1, 2009 valuation date for the current assessment. Further, the Respondent argued that the Complainant's income approach to valuation materials were not disclosed prior to the hearing, and were therefore inadmissible.

**Decision:**

The Board finds that there was insufficient evidence, upon which to alter the assessment.

The Complainant's property negotiations although persuasive, are insufficient to establish typical market value which must be determined from (preferably several) valid, market transactions.

The Complainant's sales comparables were also of little assistance to the Board in establishing market value for the subject, as the Ogden Road property was considerably older than the subject and was purchased by an existing tenant. The sale of the Meridian Road property occurred in January 2010, and in a dynamic market would not represent the market value as of the July 1, 2009 valuation date.

The income approach (not disclosed prior to the hearing), was not compelling as it did not contain any market evidence to validate the coefficients upon which the valuation was based.

The Respondent's sales and equity comparables were persuasive, however the Board was particularly concerned that the 2007 sale of the subject was excluded from the sales comparables, while other, less similar properties were included.

Of even greater concern was the assessor's comment to the Complainant that he "could not deal with specific building issues". The legislated requirement of mass appraisal does not absolve the assessor from complying with section 289 (2) of the Act.

**289 Each assessment must reflect**

- (a) *The characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10...*

**PART D: FINAL DECISION**

The assessment is confirmed at \$6,290,000.

Dated at the City of Calgary in the Province of Alberta, this 24 day of September, 2010.



J. Krysa  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1
2.	Exhibit R1
	Complainant's Brief
	Respondent's Brief

**APPENDIX "B"****ORAL REPRESENTATIONS:**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1.	B. Ing
2.	K. Buckry
	Representative of the Complainant
	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.*