

**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-26.1, Section 460(4).

between:

Linnell Taylor Assessment Strategies, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***C. Griffin, PRESIDING OFFICER
Y. Nesry, MEMBER
D. Pollard, MEMBER***

This is a complaint to the Comprehensive 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: 201276607 & 032032807

LOCATION ADDRESS: 3501 – 23 Street NE

HEARING NUMBER: 56193 & 56196

ASSESSMENT: \$498,000. & \$3,910,000 respectively

This complaint was heard on 26 day of August, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- D. Sheridan

Appeared on behalf of the Respondent:

- R. Powell
- A. Doborski

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

N/A

Preliminary Issue:

The Complainant contends that the size of the subject property, as reported by the Respondent, is incorrect. The Respondent reports the subject contains a net rentable area of 31,216 Sq. Ft. inclusive of 6,053 Sq. Ft. of mezzanine space. The Complainant maintains that the correct size of the subject property is 30,799 Sq. Ft. net rentable inclusive of 5,636 Sq. Ft. of mezzanine space and further that this matter has been argued, successfully, before the Assessment Review Board (ARB) in years 2006, 2007 and 2008. In support of this position the Complainant submitted ARB and Municipal Government Board (MGB) Decisions from 2006, 2007 and 2008 addressing this matter. The Respondent submitted (Exhibit R-2 page 22) a recent (May31/10) measurement report which indicates areas that do not coincide with either of the aforementioned areas. While the differences are not overly significant, the Composite Assessment Review Board (CARB), for the purposes of this Hearing, accepts the sizes as indicated by the Complainant and as accepted by previous ARB and MGB Hearings.

Property Description:

The property under complaint consists of a free standing, multi-tenant industrial building that is located in the North Airways Industrial Park in northeast Calgary. The property is approximately 32 years of age with a reported year of construction being 1977. The property has a main floor area of 25,163 Sq. Ft. and a mezzanine space of 5,636 Sq. Ft. The site size of the property is 3.31 acres. It should be noted that the subject property contains an Exempt area of 3,524 Sq. Ft. and this is the reason for there being two separate roll numbers for this property.

Issues:

The Issue(s) identified on the Assessment Review Complaint Form are:

1. The assessed value is incorrect
2. The assessed value is too high.

Complainant's Requested Value:

\$407,000. & \$3,193,000. respectively **Revised at the Hearing** to \$362,000. & \$2,838,000.respectively.

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

The Complainant contends that the most appropriate method of deriving an estimate as to the assessable value of the subject property is through application of the Income Approach to Value and supported this position, in part, by referring to the Detailed Assessment Audit Manual (DAAM) page 34 of which is presented in Appendix A of their Exhibit # C1 which the Complainant suggests recommends the use of the Income Approach for properties such as the subject.

As it relates to particular matter, the CARB has no authority to direct which method of valuation should or should not be used to determine the assessable value of any given property. The CARB is concerned with the accuracy, fairness and equity of the assessed value, not the method with which that value has been derived. Additionally, the CARB points out that the referenced DAAM page indicates that when it comes to warehouses, the Income Approach or the Sales Comparison Approach or the Cost Approach are the recommended approaches to be used, there being no emphasis on any one particular approach. Having said that the CARB

points out that this does not mean that evidence relating to any recognised approach to value, used by the assessing authority or not, will not still be given consideration in determining the accuracy as to the assessed value of any property.

The Complainant presented what the CARB considered to be a well supported Income Approach which resulted in a value estimate of \$3,020,000 (inclusive of the Exempt portion) for the subject property. The CARB considered the Complainant's Income Approach to be well supported in that they provided market evidence to support such inputs as: rental rates, operating costs, vacancy rates and capitalization rates. In application of their Income Approach, the Complainant incorporated an allowance for "extra land" as the Assessment Explanation Supplement for the subject property indicates 1.51 acres of "extra land".

The Respondent referred to the Assessment Explanation Supplement for the subject property and made note of the fact that while same does indicate 1.51 acres of "extra land", no value had been assigned to same. The reasoning being that in application of the Direct Sales Approach, as used by the Respondent, the value of the entire parcel is captured. The notation relating to "extra land" relates to previous years when the Respondent did utilize the Income Approach and such an analysis would incorporate an allowance for same.

The CARB accepts that "extra land" as it applies to the subject property, is captured through application of the Direct Comparison Approach (Direct Sale Approach); however, it is appropriate to incorporate an allowance for same when utilizing the Income Approach as has been done by the Complainant.

In addition to their Income Approach, the Complainant also submitted two (2) value estimates as derived through their application of what the CARB considers to be, with one exception explained following, a well supported Direct Comparison Approach (Sales Comparison Approach). The first value they derived is \$3,070,000 (inclusive of the Exempt portion) while the second value they derived is \$3,470,000 (also inclusive of the Exempt portion). The difference between the values stems from their application, in the first instance, of what they refer to as an "Adjustment for NOI". The CARB questioned the origin of this type of adjustment and if the Complainant could provide any reference to any recognised appraisal or assessment manuals or texts that verified the use of such an adjustment, but they were unable to do so. In consideration of the foregoing the CARB gives little consideration to the value derived through application of this "Adjustment for NOI" but does give consideration to the \$3,470,000 value indication which has been derived without application of such an adjustment.

The Respondent, in defence of the assessed value, submitted both sales and equity comparables and they also pointed out that two of the sales presented by the Complainant were post-facto to the July 1, 2009 valuation date. Their sales evidence consisted of 3 sales, two of which were recorded in September of 2008 and one in September of 2007. One of the properties was classified as multi-tenant industrial while the other two were classified as being single tenant. The adjusted sales price/Sq. Ft. of building area for these sales were \$119, \$119 and \$127. The Respondent noted that the significant differential between the site coverage of the sales compared to that of the subject resulted in the lower total adjusted sales prices/Sq. Ft. for these comparable properties. The Respondent also presented four (4) equity comparables which showed assessed rates/ Sq. Ft. of building area of \$136, \$137 and \$129.

The CARB does not consider sales recorded in July and August of 2009 to be post-facto as they were recorded in the year of valuation. Additionally, the Respondent chooses to utilize the

registration/transfer date as the date of sale. The CARB notes that a sale that was registered in early July or mid August of the valuation year was most probably negotiated prior to July 1 of the same year. The CARB further notes that use of what some might consider post-facto evidence is appropriate so long as time adjustments, if required, are applied. The sales submitted by the Respondent are considered to be reasonably comparable to the subject property with the exception of two factors: the date of sale and the site coverage.

The Complainant also introduced Rebuttal evidence (Exhibit C2) which made reference to two recent CARB decisions which, the Complainant contends, support the value they have determined for the "extra land" component. Additionally, this Rebuttal refers to the new measurement of the subject that was provided by the Respondent noting that "... no consideration has been given to mezzanine common areas consisting of stairwell, hall way and washrooms." Referring to the Respondent's sales comparables the Rebuttal states that same "...confirm a weighted mean TASP of \$121 per SF, as compared to the subject's assessment of \$141.40 per SF." Further reference is made to the Respondent's equity comparables which "...confirm a median of \$136 per SF and a weighted mean of \$134 per SF, as compared to the subject's assessment of \$141.40 per SF." This Rebuttal goes on to indicate "...these equity comparables exhibit percentages finishes of between 28% to 91% greater than the subject's 32%. During previous O/W complaints, we have heard through questioning of the assessor by the panel that between a possible 0% to 100% finish the quantum can be up to \$30 per SF. However, no adjustment for % finish is specified."

In the final analysis the CARB finds the evidence of the Complainant to be more persuasive. Their applied Income Approach is well supported by market based evidence and their Direct Comparison Approach is based upon more recent sales than those utilized by the Respondent. The sales provided by the Respondent do not reveal the coefficients, nor are they required to do so, to explain the possible adjustment for the site coverage factor, rather this is left to the CARB's interpretation. A similar situation also relates, albeit to a lesser degree, to the equity comparables provided by the Respondent. The CARB is not prepared to accept that the coefficients applied in the Respondent's model do or do not make the appropriate allowances for such factors as site coverage.

Board's Decision:

The assessment of the subject property is reduced as follows:

Roll # 201276607 \$ 362,000.

Roll # 032032807 \$2,838,000.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF Sept 2010.


C. J. GRIFFIN
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.*