

**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:

COLLIERS INTERNATIONAL REALTY ADVISORS INC., Complainant

and

THE CITY OF CALGARY, Respondent

Before:

**J. KRYSA, Presiding Officer
R. ROY, Member
I. FRASER, Member**

A hearing was convened on October 4, 2010 in Boardroom 5 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:	200094639
LOCATION ADDRESS:	2880 45th Avenue SE
HEARING NUMBER:	58820
ASSESSMENT:	\$28,250,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 16.62 acre parcel of land, improved with 4 multi-tenant industrial warehouses, with an overall area of 275,076 square feet, and a building to land ratio of 38%. The improvement details are set out below:

Bldg No.	Year Built	Footprint Sq.Ft.	Rentable Area	Finish %	Assessment \$/Sq.Ft.
1	1999	79,997	79,997	17%	\$104.00
2	2000	144,287	144,287	11%	\$93.95
3	2002	31,692	31,562	0%	\$119.80
4	2002	19,360	19,230	0%	\$134.62

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

There were no procedural or jurisdictional matters raised by the parties during the course of the hearing.

PART C: MATTERS / ISSUES

In section 4 of the complaint form, the Complainant identified matters 1 through 7 apply to this complaint. At the hearing, matters 1, 2, 4, 5, 6, and 7 were withdrawn, and only matter 3, an assessment amount was addressed.

The Complainant set out 17 grounds for complaint in section 5 of the complaint form, with a requested total assessment of \$7,060,000, however, at the hearing only the following issue(s) were stated to be in dispute:

Issue 1: Market Value – Income Approach to Value

Issue 2: Fairness and Equity

The Complainant requests an assessment of \$19,620,000 based on equity.

Issue 1: Market Value – Income Approach to Value

The Complainant argued that as a result of a lack of recent sales occurring in the area, the Assessor's multiple regression analysis (MRA) sales model predicts "skewed" values for some properties; consequently the income approach is the most reliable approach to establish the market value of the subject property.

The Complainant submitted an income approach valuation of the subject property indicating a value of \$25,036,000. The Complainant reviewed 2 leases from within the subject property, commencing in May 2008 and November 2009, that exhibited rent rates of \$9.25 and \$7.50 per square foot, respectively; and 4 leases from industrial buildings located near 56 Street and 69 Avenue SE that exhibited rent rates ranging from \$5.20 to \$8.65 per square foot. From this review, the Complainant concluded a market rent rate of \$7.50 per square foot was appropriate for the subject property [C-1, pp. 8-9].

The Complainant then reviewed 5 sales of industrial properties to establish a capitalization rate. The sales occurred between December 2008 and May 2010, and exhibited a range of capitalization rates from 6.61% to 7.82%. The Complainant asserted that a capitalization rate between 8.0% and 8.5% is evident, to which an upward adjustment of 0.5% to 1.0% would be required, to reflect current market conditions. From this review, the Complainant concluded a capitalization rate of 7.75% was appropriate for the subject property [C-1, pp. 10-11].

In support of the assessment of the subject property at \$102.70 per square foot, the Respondent submitted sales transaction reports and a summary chart, detailing the attributes of three large industrial properties that had sold between December 2006 and August 2008, exhibiting a range of time adjusted sale prices from \$93.00 to \$128.00 per square foot, with the two most recent sales, in August 2008, exhibiting time adjusted sale prices of \$114.00 and \$128.00 per square foot [R-1, p. 20].

Decision – Issue 1

The Board finds that the Complainant has failed to establish a *prima facie* case in this matter.

Although the Complainant argued that the Assessor's MRA direct (sales) comparison model skewed values for some properties, there was no market evidence presented in support of that proposition.

The Board finds the Complainant's income approach to be of no value in establishing the market value of the subject property, as the Complainant's conclusions regarding the coefficients appear to be arbitrary, and are unsupported by market evidence. The May 2008 lease within the subject at \$9.25 per square foot was disregarded in favor of the *post facto* November 2009 lease at \$7.50 per square foot. The lease review of the comparable properties exhibited average and median lease rates of \$6.51 and \$6.10 respectively, and did not support the Complainant's conclusion of a \$7.50 per square foot rent rate, as suggested [C-1 p. 9]. Further, there was no indication of the commencement dates of the comparable leases in evidence. The Board noted that there was also no market evidence in support of the 5% vacancy allowance, nor the 1% "IW M 2000" allowance in the valuation calculation. With respect to the capitalization rate analysis, the Complainant suggested an appropriate capitalization rate range of 8.0% to 8.5% was evident, from 5 sales exhibiting capitalization rates at or below 7.82% [C-1 p. 10]; and after an upward adjustment of 0.5% to 1.0%, the Complainant concluded a capitalization rate of 7.75% for the subject property. Further, the adjustment calculations relied upon by the Complainant were not included in evidence, and the Board was not able to determine what specific adjustment was applied to each sale, to arrive at the Complainant's conclusion.

The Board accepts that the Respondent's comparative sales evidence exhibits a range of time adjusted sale prices, and the assessment of the subject at \$102.70 per square foot fits well within that range. Further, the Complainant's sales included in the capitalization rate analysis exhibit average and median sale prices of \$114.83 and \$98.42 per square foot, which are also supportive of the current assessment.

Issue 2: Fairness and Equity

The Complainant argued that the subject property was unfairly and inequitably assessed in relation to similar properties, and submitted a chart of 9 industrial properties exhibiting assessments ranging from \$70.14 to \$82.36 per square foot. From this review, the Complainant requested the Board set the assessment at a rate of \$70.00 per square foot, establishing an assessment of \$19,620,000 [C-1, p. 13].

The Respondent submitted a summary of four comparable properties, indicating the attributes relied on in the multiple regression analysis, and exhibiting a range of assessed rates from \$80 to \$107 per square foot of building area to demonstrate that the subject property is equitably assessed with similar properties [R-1, p. 25].

Decision – Issue 2

The Board finds that the Complainant has failed to establish a *prima facie* case in this matter.

The Board finds that the Complainant's equity comparables are dissimilar to the subject property, and do not demonstrate that an inequity exists. For example, the Complainant's comparables exhibit a range of building to land ratios from 49% to 65%, in contrast to the subject's building to land ratio of 38%. Further, the Complainant failed to make any adjustments to the comparables to account for the differences, which would have allowed the Board to consider appropriate comparisons.

The Board accepts the Respondent's evidence that the assessment is fair and equitable in relation to similar properties.

FINAL DECISION

The property assessment is confirmed at \$28,250,000.

Dated at the City of Calgary in the Province of Alberta, this 22 day of October, 2010.



J. Krysa
Presiding Officer

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

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

APPENDIX "B"**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1.	M. Uhryn Representative of the Complainant
2.	D. Desjardins 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.*