

**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 7, 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:	048041107
LOCATION ADDRESS:	1915 30th Avenue NE
HEARING NUMBER:	58697
ASSESSMENT:	\$2,470,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 55,587 square foot (1.28 acre) parcel of land, improved with a 17,856 sq.ft. single-tenant industrial warehouse (incl. 3,456 sq.ft mezzanine) constructed in 1978, with 32.5% finish, and a building to land ratio of 25.9%. The total assessment equates to \$138.33 per square foot of leasable area.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

During the course of the hearing, the Respondent raised an objection with respect to the Complainant's rebuttal evidence, exhibit C4. The Respondent argued that the rebuttal evidence was not proper rebuttal, as it was not related to the evidence of the Respondent.

The Complainant argued that the rebuttal evidence addresses the characteristics of the property and as such, should be allowed.

Decision – Procedural Matter

The Board finds that with the exception of pages 44 to 47, exhibit C4 is not proper rebuttal and therefore will not be heard by the Board. It is evident that the characteristics and physical condition of the subject property were not issues of this complaint prior to the Complainant's rebuttal evidence.

Exhibit C1, the Complainant's evidence submission, contains no evidence in support of an issue with respect to the characteristics and physical condition of the subject property. Exhibit R1, in response to the Complainant's disclosure of evidence, also contains no evidence related to the characteristics and physical condition of the subject property.

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 15 grounds for complaint in section 5 of the complaint form, with a requested total assessment of \$620,000, however at the hearing only the following issue was in dispute:

Issue 1: Market value

The Complainant requests an assessment of \$2,170,000 [C1, p.4].

Issue 1: Market value

The Complainant submitted a summary of three time adjusted sales of NE industrial properties between 15,724 to 23,801 sq.ft., exhibiting a range of time adjusted sale prices from \$94.95 to \$172.77 per sq.ft., and average and median time adjusted sale prices of \$138.13 and \$146.67, respectively; from which the Complainant calculated an assessment based on an average sale price of \$143.00 per sq.ft. The summary also set out the assessments of the properties, ranging from \$129.18 to \$154.96 per sq.ft., with average and median assessments of \$140.71 and \$138.01 per sq.ft., respectively [C1, pp.3-4].

The Respondent submitted that the direct sales comparison approach was used in the preparation of the assessment, and in support of the assessed rate of \$160.70 per sq.ft., the Respondent submitted a summary of 5 industrial property sales exhibiting a range of time adjusted sale prices from \$147.00 to \$230.00 per sq.ft., and a median of \$173.00 per sq.ft.

The Respondent further argued that in reviewing the assessment as a result of the complaint, an error was discovered with respect to the total area of the subject property. The current assessment (before rounding) is based on a total leasable area of 15,400 sq.ft. at the rate of \$160.70 per sq.ft.; the correct total leasable area of 17,856 sq.ft. at the same rate of \$160.70 per sq.ft., would result in an assessment of \$2,850,000 (rounded) [R1 p.15-16].

The Respondent requests that the assessment be changed to \$2,850,000, to reflect the correct total area of the improvement.

Decision – Issue 1

The Board finds the current assessment does not reflect the market value of the subject property as of July 1, 2009, the legislated valuation date for this assessment.

The Board is not persuaded by the Complainant's average sale price derived from 3 sales which range between \$94.95 and \$172.77 per sq.ft. The Board does not accept that properties exhibiting such a wide range of sale prices per sq.ft., are all comparable to the subject; and deriving an "average" rate from 3 dissimilar properties is not an accepted approach to establish an estimate of market value.

The Board accepts the evidence of the Respondent with respect to the proper assessed rate to be applied to the area of the improvements. The assessed rate of \$160.70 per sq.ft. falls within the range of sale prices set out by the Respondent, and comparisons to the properties sold, establish a reasonable relationship to the time adjusted sale prices per sq.ft. of the market indicators.

The Board further accepts the Respondent's position (uncontested by the Complainant) with respect to the correct size of the improvement, being 17,856 sq.ft.

The legislation sets out the Board's jurisdiction with respect to the decisions an Assessment Review Board may make:

Municipal Government Act, RSA 2000 Chapter M-26

467(1) *An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.*

The Board's jurisdiction to make a change to an assessment roll is not limited to reducing an assessment amount.

In this instance, the Complainant acknowledged he was aware of the Respondent's impending request to increase the assessment upon receipt of the Respondent's disclosure of evidence pursuant to s.8 (2)(b) *Matters Relating to Assessment Complaints Regulation, AR 310/2009*, and further acknowledged and accepted the Respondent's calculation of the total area of the improvement.

FINAL DECISION

The property assessment is changed from \$2,470,000 to \$2,850,000.

Dated at the City of Calgary in the Province of Alberta, this 8 day of November, 2010.



J. Krysa
Presiding Officer

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

NO.	ITEM
1.	Exhibit C1
2.	Exhibit R1
3.	Exhibit C2

Evidence Submission - Complainant
Evidence Submission – Respondent
Rebuttal Evidence – Complainant (pp. 44-47)

APPENDIX "B"**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. D. Porteous	Representative of the Complainant
2. R. Powell	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.*