

**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:

<b>ROLL NUMBER:</b>	<b>048042303</b>
<b>LOCATION ADDRESS:</b>	<b>2001 27<sup>th</sup> Avenue NE</b>
<b>HEARING NUMBER:</b>	<b>58706</b>
<b>ASSESSMENT:</b>	<b>\$13,860,000</b>

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

The subject property is a 92,204 square foot (sq.ft.) parcel of land, improved with a 45,662 sq.ft. single tenant industrial warehouse, constructed in 1979, with 81% finished area, and a partially completed 8,720 sq.ft. internet data centre expansion. The building to land ratio of the completed structures is 20.88%.

**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 At the hearing, matters 1, 2, 4, 5, 6, and 7 were withdrawn, and only matter 3, an assessment amount was addressed.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 14 grounds for complaint in section 5 of the complaint form, with a requested total assessment of \$3,640,000, however at the hearing the following issue(s) were in dispute:

Issue 1: Recently constructed improvements were not occupied on the valuation date and are therefore not assessable.

Issue 2: The development permit value does not reflect the market value of the improvement; and the development permit value includes the value of (non-assessable) chattels.

Issue 3: Equity

Issue 4: Valuation of "additional" lands

The Complainant requests an assessment of \$4,622,470 [C1, p.42].

The Board noted that the issues put forth by the Complainant at the hearing, may or may not have been specifically set out in section 5 of the complaint form; however, as the Respondent did not raise an objection at the hearing, the Board proceeded to hear the merits of the complaint as presented.

**Issue 1:** Recently constructed improvements were not occupied on the valuation date and are therefore not assessable.

The Complainant argued that the partially completed 8,720 sq.ft. internet data centre expansion was not occupied on the valuation date of the assessment and is therefore not assessable property for the current assessment. In support of that argument, the Complainant submitted six 2008 Assessment Review Board decisions to illustrate that the Assessment Review Board has previously decided that an assessment value of \$0.00 was appropriate if a property was incomplete [C1, pp. 73 – 79].

The Respondent argued that the improvements in question, although incomplete and unoccupied, are assessable in accordance with the legislation.

**Decision - Issue 1**

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

The Board finds that the improvements are assessable, as they existed, on December 31, 2009.

*Municipal Government Act, RSA 2000, Chapter M-26*

s. 289(2) 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 in respect of the property

In the absence of any evidence to the contrary, the Board accepts that the Respondent's estimate at "90% complete", accurately reflects the characteristics and physical condition of the property pursuant to the legislation. The Board found this estimate to be reasonable, in light of the Complainant's own evidence that an original occupancy permit was signed on February 12, 2010, by an officer of the municipality [C1, p.36].

The Board did not consider the 2008 decisions of the Assessment Review Board to be relevant, as four of the decisions were not reduced to a \$0.00 assessment value as asserted by the Complainant [C1, pp. 75-76, 78-79], and the remaining two decisions related to supplementary assessments, not annual assessments [C1, pp. 74 and 77].

**Issue 2:** The development permit value does not reflect the market value of the improvement; and the development permit value includes the value of (non-assessable) chattels.

The Complainant argued that the Respondent improperly valued the partially completed 8,720 sq.ft. internet data centre expansion, by relying on the value of the development permit as an indication of market value; and that the cost of the development does not reflect its value, as "cost and value are not synonymous terms". The Complainant further argued that the Board has previously ruled that development permit values should not be given weight for assessment purposes [C1, p.13]. In support of that argument, the Complainant submitted two 2009 Assessment Review Board decisions in respect of properties located at 5505 72 Ave SE and 5543 72 Ave SE [C1, pp.80-85].

Further, the Complainant argued that the development permit value is inappropriate to rely on, as it includes the value of non-assessable chattels (personal property) [C1, p.13].

The Respondent argued that the cost approach is a valid approach to estimate market value, and the development cost of an improvement can appropriately reflect the market value of the property during the construction phase, and is an appropriate valuation consideration.

The Respondent further argued that applicants for building permits are made aware that the value of any personal property is to be excluded from the total building permit costs, and further, that the applicant in this instance is a sophisticated company that would have made such applications in the past, and would be well aware of the requirements.

**Decision – Issue 2**

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

In the absence of any market evidence to the contrary, the Board finds that the value of the development permit, in this instance, reflects the market value of the improvement.

Further, in the absence of any evidence to the contrary, the Board finds that the value of the development permit reflects the value of assessable improvements as defined in the Act, and does not include the value of any non assessable chattels (personal property).

The Board did not consider the two 2009 decisions of the Assessment Review Board to be relevant as there is no indication that the issue of a development permit was before the Board in those matters; again contrary to the Complainant's testimony.

**Issue 3: Equity**

The Complainant argued that the subject property is inequitably assessed in relation to similar properties. In support of this argument, the Complainant submitted two pages, extracted from the Respondent's materials in an unrelated complaint, detailing the assessments of 16 industrial properties exhibiting a range of assessment rates from \$82.00 to \$108.00 per sq.ft. Based on this evidence, the Complainant asserted that a rate of \$85.00 per sq.ft. would establish an equitable assessment for the subject property of \$4,622,470 [C1 pp. 40-42].

The Respondent argued that the subject property was assessed on the same basis as all other industrial properties with a multiple regression analysis model, plus 90% of the recent building permit (cost approach) value, attributable to the special purpose addition.

**Decision – Issue 3**

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

The Board finds that the 16 industrial property assessments put forward by the Complainant were not similar in nature to the subject, and as a result do not demonstrate that an inequity exists. The Board noted that the subject property contains a finished area of 81% in contrast to the comparables which average 22.8%; the subject property has a building to land ratio of 20.8% in contrast to the comparables which average 38.5%; and the subject property is a single tenant property, whereas 12 of the 16 comparables are multi-tenanted properties. Further, the Board finds that the Complainant's comparables are general purpose industrial properties and not special purpose structures, constructed to house high tech electronic equipment, as is the subject property.

**Issue 4: Valuation of "additional" lands**

The Complainant stated that the Respondent added an incremental value for 0.74 acre area of the subject property, as if it were a parcel, at a rate of \$1,000,000 per acre. The Complainant argued that valuing the "additional" land was inappropriate as it was not feasible or practical, or legally permissible to subdivide the additional lands from the subject parcel [C1, pp. 8-10].

The Respondent reviewed the assessment explanation report, and indicated that there was no additional land value included in the assessment of the subject property [R1, p.18].

**Decision – Issue 4**

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

The Board is persuaded by the Respondent's calculations which reflect the total assessment under complaint, that no unwarranted value has been attributed to the subject property land component.

**FINAL DECISION**

The property assessment is confirmed at \$13,860,000.

Dated at the City of Calgary in the Province of Alberta, this 17 day of November, 2010.

A handwritten signature in cursive script, appearing to read 'J. Krysa', is written over a horizontal line.

J. Krysa  
Presiding Officer

**APPENDIX "A"**

## DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD:

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1 Evidence Submission - Complainant
2.	Exhibit R1 Evidence Submission – Respondent

**APPENDIX "B"**

## ORAL REPRESENTATIONS

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. M. Uhryn	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.*