

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Colliers International Realty Advisors, COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

J. Fleming, PRESIDING OFFICER

J. Pratt, MEMBER

I. Fraser, MEMBER

This is a complaint to the Calgary 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: 200101673

LOCATION ADDRESS: 6969 55 St. SE

HEARING NUMBER: 58821

ASSESSMENT: \$16,370,000

This complaint was heard on the 22nd day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- M. Uhryn *for the Complainant*

Appeared on behalf of the Respondent:

- J. Greer; City of Calgary *for Respondent*

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

This complaint was one of a number of similar complaints heard during the week of October 18th. At the outset of the hearing, the CARB provided a summary of their intended findings on the previous similar hearings and noted that if the evidence was similar in this complaint, it was likely that the decision would be identical.

The Complainant elected to file the evidence for this complaint asking that the arguments and questions be carried forward from the earlier presentations and asking that the CARB use its judgement in deciding on the complaint.

There were no other procedural or administrative matters raised.

Property Description:

The property is a 149,044 square foot multi tenant Industrial building built in 2007, on 7.46 acres of land in SE Calgary. The property has a land use designation of I-G (Industrial General) and is valued using the Sales Comparison approach to value.

Issues:

The Complainant initially identified 17 grounds of complaint which were reduced to 6 at the hearing. The essence of the revised grounds for complaint is:

The sales comparison approach is not the best method of valuation due to insufficient sales, and so the Income Approach to Value (IAV) yields a more realistic value.

Complainant's Requested Value:

\$10,500,000

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

The Income Approach to Value used by the Complainant is not supported well enough to establish the value of the subject.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$16,370,000.

REASONS:

The Complainant made 2 points, the first was the undependability of the Respondent's Direct Sales Comparison approach to value (DSC) due to lack of "recent" sales in the size range of the subject (i.e.: large warehouse properties). He noted that there had only been one large sale since 2008. Thus, the second point was that it made more sense to rely on the IAV as the more appropriate method of valuation.

The Complainant outlined the inputs to the valuation (Ex. 2A pgs 3 – 6). The requested rent for the property was \$8.65 per square foot noting that this was supported by recent leasing in the subject. The evidence also noted rents between \$5.20 and \$9.50 in neighbouring facilities.

The Complainant suggested a vacancy rate of 20% as representative of average rates in the neighbourhood. Upon questioning he noted that many buildings had no vacancy while others had significant amounts.

With respect to the Capitalization rate the Complainant provided a Colliers International Canadian 2nd Quarter 2009 Capitalization Report (Ex 2C pg 16) which demonstrated that Capitalization Rates (CR) in Calgary for Industrial property were from 7.75% to 8.25%. In addition, he provided details of one 300,000 square foot single tenant large industrial building sale in the north east in Aug. 2009 which demonstrated a CR of 7.78%.

Finally, the Complainant provided 6 Equity comparables (Ex. 2C pg 7) which had an average assessment of \$74.91 per square foot versus the Assessment at \$109.00 per square foot and the Complainants request for \$88.40.

The Respondent's evidence showed they had completed the assessment on the DSC basis, and therefore could not offer any informed comment on the input variables used by the Complainant in the IAV because he did not use any of those inputs in his valuation process and so was unaware of the values. He indicated that there had been over 150 improved industrial sales (which had been introduced as rebuttal evidence in hearings earlier in the week) used to establish the values for the 2010 assessment. The Respondent agreed there were not a lot of "similar" sales in the recent past, but he believed the large number of sales in the qualifying period was adequate to determine the value of the subject using mass appraisal techniques. The Respondent had highlighted 7 comparable sales (Ex 1R pg 21) (one of which was pointed out was in error, and subsequently revised) which averaged a time adjusted value of \$101.90 per square foot and they argued this supported their use of \$109.00 per square foot.

In responding to the Equity evidence put forward by the Complainant, the Respondent offered his own equity comparable analysis of 20 properties (Ex.1R pg 20) which included all of the Complainant's Equity comparables as well. This analysis yielded an average of \$85.00 per square foot but the Respondent's evidence showed that the values of the 7 comparables with a similar age to the subject (2007), averaged to a value which supported the assessment

Finally, the Respondent provided an analysis comparing the values from the Comparable sales to the values which would result from the application of the IAV using the Complainant's inputs. This analysis produced an average ASR (Assessment to Sales Ratio) of .86. The Respondent said this demonstrated that the IAV failed in trying to establish a fair market value.

The CARB considered all of the evidence. The CARB notes that it is acceptable to use any approach to value which a party feels will produce the best estimate of Market Value. The Complainant provided one Municipal Government Board (MGB) and one CARB case which supported that point. This CARB panel acknowledged the Complainant's use of the IAV and so this was not an issue.

The responsibility of the Complainant is to provide an estimate of value which uses an established valuation method and is adequately supported. The Complainant provided a number of rent comparables which ranged from \$5.20 to \$9.65 per square foot for industrial uses with lease terms beginning from 2003 to 2009 (Ex. 3C pgs 57 - 60) which were from 3 or 4 neighbouring buildings.

The legislation requires that the valuation be completed using "typical" rates. The CARB concluded there were too few lease examples and not a sufficiently consistent pattern to accept that \$8.65 per square foot was a "typical" rate. Too many adjustments were required (e.g. adjust for lease commencement, tenancy size) and the CARB concluded there was insufficient evidence to support the adjustments. As was the case in the rental rate discussion, the vacancy rate used is to be the "typical" rate. The dispersion in the vacancy rate examples from 0% in 4 properties to 100% in one property (Ex. 2C pg 4) left the CARB uncomfortable that any analysis of "typical" could be discerned from the evidence.

With respect to the capitalization rate, the CARB has previously identified concerns with putting a great deal of weight on third party evidence particularly given the nature of the disclaimers attached to the reports (Ex. 2C pg 20). The only hard data on capitalization rate then, is one (Aug. 2009) sale which occurred after the valuation date in the NE quadrant which is some distance from the subject. Without additional support, the CARB is reluctant to put much weight on the implied capitalization rate value. So, with the IAV, the CARB has insufficient confidence in the inputs to conclude that the requested value is valid. In addition, in previous hearings, the Complainant had suggested that meaningful reductions in value could be obtained even if one were to use a 1% vacancy rate. Use of a 1% vacancy rate in this Complaint provides support for the assessment

Finally, the CARB accepts the evidence from the Equity analysis of the Respondent which demonstrates that properties built around the same time as the subject have a comparable assessment.

As a result, the CARB concludes that the Complainant has not established a more compelling estimate of market value, and thus, there is insufficient evidence to disturb the assessment.

For the above reasons the assessment is confirmed as noted above.

DATED AT THE CITY OF CALGARY THIS 26th DAY OF October 2010.


James Fleming
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

No.	Item
1.	Exhibit C1
2.	Exhibit C2
3.	Exhibit C3
4.	Exhibit R1

Completed Complaint Form
Complainant's Brief
Complainant's Rebuttal
Respondent's Brief

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.*