

**CALGARY
ASSESSMENT REVIEW BOARD
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:

WRD Borger Construction Ltd; COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, H. Ang
Board Member 2, R. Roy***

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: 116009507

LOCATION ADDRESS: 7719 – 40 Street SE. Calgary, Alberta

HEARING NUMBER: 60366

ASSESSMENT: \$4,270,000

This complaint was heard on 26 day of November, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *N. Pullian*

Appeared on behalf of the Respondent:

- *I. Baigent*

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

No issues were raised at the hearing.

Property Description:

The subject is an industrial complex comprised of three buildings on a 3.87 acre site. The three buildings have a combined net rentable area of 18,226 s.f., and a building footprint of 14,940 s.f. The site is triangular in shape, and is bounded along the curved hypotenuse by a rail spur line. Whether or not the subject has access to the rail line was not entered in evidence.

Issues:

The matter under complaint is the assessment amount. The current assessment is based on a rate of \$234.30 overall, including the three buildings and the land. The assessment increased by \$670,000.00 (18.6 per cent) from 2009 to 2010. The Complainant contends that the assessment should not have increased and that in fact, there is justification for a decrease based on general market conditions.

Complainant's Requested Value: \$3,600,000

The Evidence

The Complainant submitted a Notice of Decision from the Calgary Assessment Review Board, whereby the 2009 property assessment had been appealed and the assessment reduced from \$3,970,000.00 to \$3,600,000.00. In addition, the Complainant submitted a real estate appraisal prepared by Price Aspinall Appraisals, whereby the property had been appraised for \$3,600,000.00 effective June 17, 2008. The transaction dates of the comparable data within the appraisal ranged from August, 2007 to June, 2008.

The Respondent took the position that the Complainant's appraisal evidence was outdated and should not be relied upon for the current 2010 date. The Respondent also stated that "much of the value of this property is in the land". No allowance or adjustment was applied to the land rate to account for the triangular shape.

The Respondent also stated that the Complainant's appraisal was prepared for mortgage purposes and therefore could not be relied upon for the purpose of assessment complaint.

The Respondent also presented 14 sales comparables, and 7 equity comparables in support of the assessment rate. Selling dates of the sales comparables ranged from November, 2006 to April,

2009. Of the 14 sales comparable transactions, 11 occurred prior to the June 17, 2008 effective date of the Complainant's appraisal. To adjust for time to the July, 2009 assessment date, the Respondent applied a positive one-half per cent per month adjustment to the 2006 transactions, and a negative one half per cent per month adjustment to the 2007 and 2008 transactions. The time adjusted selling prices of the Respondent's comparables range from \$211 to \$514 per s.f. of building area. However, the high end of the range is reflected by a small building on 2.80 acres in an Inner-City neighborhood. This property is not considered comparable to the subject in any way. Of the balance of the transactions, only one has a building size somewhat similar to the subject. That property, at 8816- 40 Street SE, - reflected a time adjusted selling price of \$230.00 per s.f. The building is about ten years newer than the subject. The finished component is 31 per cent, compared to 21.2 per cent overall, for the subject. An approximate 15 per cent downward adjustment for age and finish produces a relative indicator of \$195.50 per s.f. The remainder of the transactions are mostly improved with smaller buildings. The Respondent attempted to compare each of these to the individual subject buildings. In this manner, each as comparables seems more comparable to the subject buildings on an individual basis.

Board's Findings

The Board does not agree with the Respondent as far as the purpose of the Complainant's appraisal is concerned. No doubt, the intended use of the report was to obtain mortgage financing, but the function was to estimate market value. And, market value remains the same, irrespective of the purpose of an appraisal report.

The Board will not exclude the Complainant's evidence as being outdated. The Respondent's sales evidence is equally dated, and if the Board were to exclude the Complainant's evidence, then the Respondent's evidence could be equally excluded. This Board is aware of the relevant dates, and is in a position to weigh the evidence accordingly.

The Board does not accept the Respondent's methodology of comparing a comparable property to only a portion of the subject (one of three buildings) as being reflective of typical market behaviour. Any purchaser contemplating acquisition of the subject, or any multi building property such as the subject, is certain to consider the property as a single entity, without segregating the individual components. In other words, any buyer of the subject would buy one single property comprised of three buildings, not the aggregate of three individual properties. Any assessment of the subject should be prepared on the same or similar basis in order to truly reflect market value.

For the same reasons previously outlined, the Board does not accept the Respondent's equity comparables as being comparable.

The Board does not accept the Respondent's position that no adjustment should be applied to the land to account for shape. Although no adjustment calculation has been carried out, this Board simply notes that the current assessment would have likely been lower had an adjustment to account for shape been applied to the land.

Of the evidence submitted, the Board finds the Complainant's package to be more compelling. There is already an ARB decision reducing the previous assessment to \$3,600,000.00, and values have continued to decline, not increase, since then. There is a real estate appraisal at \$3,600,000.00. No doubt, the appraisal, and perhaps, the value is dated. However, the value on

June 30, 2009, should be lower, not higher. Finally, the adjusted selling price of the property at 8816-40 Street SE, produces a relative indicator for the subject of \$3,563,183.00 – very near the Complainant's requested assessment.

Board's Decision

The assessment is reduced to \$3,600,000.00.

DATED AT THE CITY OF CALGARY THIS 6 DAY OF December 2010.



J. Zezulka
Presiding Officer

List of Exhibits

C-1; Evidence submission of the Complainant
R-1; City of Calgary Assessment 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.*