

**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, Revised Statutes of Alberta 2000 (the Act).

between:

**Roycom (6) Property Fund Ltd. Roycom (6) Nominee Inc.
c/o Courtenay Real Estate Services Inc.
(as represented by Altus Group Ltd.), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
B. Bickford, MEMBER
R. Kodak, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of the property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	098018005
LOCATION ADDRESS:	2707 61 Ave SE
HEARING NUMBER:	67126
ASSESSMENT:	\$10,560,000

The complaint was heard on July 04, 2012, in Boardroom 3 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- J. Smiley

Appeared on behalf of the Respondent:

- I. McDermott

Board's Decision in Respect of Procedural or Jurisdictional Matters

[1] There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description

[2] The subject property is a 6.04 acre parcel of land improved with an 89,235 sq.ft. (square foot) multi-tenanted industrial warehouse, exhibiting a site coverage (building : land) ratio of 30.58%. The improvement was constructed in 2001, and approximately 26% of the total area has interior development. The total assessment of \$10,560,000 equates to a rate of \$118.37 per sq.ft. of improvement area.

Issues

[3] The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment 4. an assessment class

[4] However, at the hearing the Complainant withdrew matter 4 and led evidence and argument only in relation to matter 3, an assessment amount. The Complainant set out 14 grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$8,380,000; however, only the following issues were in dispute at the hearing:

Issue 1: The assessment exceeds the indicated market value of the subject property.

Issue 2: The assessment of the subject property is inequitable in relation to the assessments of similar properties.

Complainant's Requested Assessment

At the hearing, the Complainant requested an assessment of \$9,360,000.

Board's Decision in Respect of the Issues:

Issue 1: The assessment exceeds the indicated market value of the subject property.

[5] The Complainant argued that the subject's assessment is not reflective of the market value of the subject property. In support of the argument, the Complainant provided a direct sales comparison approach to establish an indicated market value of \$9,548,145, derived from the sales of two industrial warehouse properties located in the East Shepard district, as set out below:

SE Address	Net Rentable Area (Sq.Ft.)	Site Coverage	Year Built	Finish	Sale Date	Sale Price	Sale Price / SF	Time Adjusted Sale Price / SF
4141 110 Av	139,193	37%	2007	0%	19-Dec-08	\$13,600,000	\$ 98	\$ 88
10905 48 St	146,135	43%	2008	0%	27-Apr-10	\$18,300,000	\$ 125	\$125
							Median	\$107

[6] The Complainant established the subject's indicated market value as follows:

Net Rentable Area	89,235 Sq.Ft.
Median Rate of Sales	\$ <u>107 / Sq.Ft.</u>
Indicated Market Value	\$ 9,548,145

[7] The Complainant further argued that the above indication of value would represent the upper limit of value for the subject as the properties sold were zoned IG and would have an underlying land value of \$525,000 per acre in contrast to the subject property which is zoned IH, and would have an underlying land value of \$350,000 per acre.

[8] The Respondent argued that the Complainant's sales were dissimilar to the subject as a result of their larger net rentable areas and higher site coverage ratios, and provided 4 sales of industrial warehouse properties in support of the subject's assessed rate; one sale being common to the Complainant's evidence.

Address	Parcel Size (Ac)	Net Rentable Area (Sq.Ft.)	Site Coverage	Year Built	Finish	Sale Date	Time Adjusted Sale Price	Time Adjusted Sale Price / SF
2729 48 Ave SE	7.36	71,742	21.5%	1999	8%	01-Jun-09	\$ 8,759,257	\$ 122
6732 8 St NE	9.65	111,501	26.5%	1990	36%	27-Aug-08	\$14,049,285	\$ 126
10905 48 St SE	7.56	142,672	43.3%	2008	39%	27-Apr-10	\$17,614,769	\$ 123
11195 42 St SE	8.55	158,278	42.7%	2007	10%	19-Dec-08	\$14,410,617	\$ 91

[9] The Respondent further argued that the assessment rate of the subject, at \$118.37 per sq.ft. falls within the ranges of market value evident in both the Complainant's sales and the Respondent's sales, and therefore is supported by the market evidence before the Board.

[10] In response to the Complainant's argument that the subject's zoning is inferior to that of the sales, the Respondent referred the Board to subsection 2 of section 1001 of the Land Use Bylaw – 1P2007 contained at page 40 of exhibit C1:

(2) The following uses are discretionary uses in the Industrial – Heavy District if they are located in a building that was legally existing or approved prior to the effective date of this Bylaw:

- (a) General Industrial – Light; and
- (b) General Industrial - Medium

[11] The Respondent submitted that the subject property complies with the Land Use Bylaw as the improvement on the subject property was constructed in 2001 and legally existed prior to the effective date of the bylaw. Accordingly, the subject property is of an equivalent land use designation to the sales presented by both parties, as the bylaw allows for discretionary I-G uses on the subject property.

[12] In response the Complainant argued that although an I-G use may be a discretionary use of the subject property, every tenant must be "vetted" to occupy an improvement in an IH district for an I-G use. The Complainant further argued that the Respondent's multiple regression analysis model ignores "zoning" as an attribute in an industrial property valuation.

Decision: Issue 1

[13] The Board finds that there was insufficient relevant market evidence to demonstrate that the assessment exceeds the indicated market value of the subject property.

[14] The Board was not persuaded by the sales evidence of the Complainant, as the sales demonstrate a wide range of time adjusted sale prices from \$88 to \$125 per sq.ft., and no value adjustments were made to relate the characteristics of the properties sold, to the characteristics of the subject property. Further, the Complainant's sales are found to be dissimilar to the subject property as the improvements are 56% and 63% larger than the subject property, and are located on parcels that are 4% and 25% larger than the subject property; attributes reflective of the properties' higher site coverage ratios.

[15] The Board further reject the Complainant's argument that the subject's I-H zoning would suggest a lower underlying land value than that of the I-G properties in sales evidence, as the subject property clearly meets the conditions for a discretionary use of "General – Industrial" set out in the Land Use Bylaw included at page 40 of the Complainant's exhibit C1. The Board also gave little weight to the Complainant's argument that every I-G tenant must be "vetted" in order to occupy an improvement within an I-H district, as there was no evidence presented to substantiate that assertion, and no reference to such a requirement in the sections of the bylaw before the Board.

[16] Although the Board had similar concerns with the Respondent's unadjusted sales comparables, the onus or burden of proof lies with the Complainant to present a prima facie case to demonstrate that the assessment is incorrect. In this instance, the Complainant failed to provide sufficient relevant market evidence to demonstrate that the assessment exceeds the indicated market value of the subject property, and to shift the burden of proof to the Respondent.

Issue 2: The assessment of the subject property is inequitable in relation to the assessments of similar properties.

[17] The Complainant provided the 2012 assessments related to the two sales, and three additional industrial properties to demonstrate a range of assessed values from \$8,440,000 to \$15,660,000, equating to rates of assessment ranging from \$92 to \$114 per sq.ft., with a median rate of \$105 per sq.ft., in contrast to the subject's assessment rate of \$118 per sq.ft.

[18] The Respondent provided the 2012 assessments and physical attributes for six industrial properties to demonstrate a range of assessed values from \$9,173,169 to \$12,099,694, equating to rates of assessment ranging from \$105 to \$129 per sq.ft., in contrast to the subject's assessment rate of \$118 per sq.ft. One of the properties, 5329 72 Ave SE, was common to both parties evidence.

Decision: Issue 2

[19] The Board finds that the assessment of the subject property is equitable in relation to the assessments of similar properties.

[20] As neither party prepared value adjustments to relate the characteristics of the comparable properties to the characteristics of the subject property, the Board reviewed the assessment of the subject in relation to all of the equity comparables in evidence from both parties. The Board excluded the Complainant's sales comparables that were also included in the Complainant's equity analysis, as they are dissimilar to the subject property as a result of their net rentable areas of 139,193 sq.ft. and 146,135 sq.ft., in contrast to the subject's net rentable area of 89,235 sq.ft. The remaining properties in evidence range in size from 80,117 to 96,076 sq.ft., (+/- 10% of the subject) and are assessed at rates ranging from \$91.93 to \$129.82 per sq.ft., with a median rate of \$114.35 per sq.ft., as set out below:

Evidence	Net Rentable Area	Assessment	Assessment / Sq.Ft.	% of Median
C1	91,807	\$ 8,440,000	\$ 91.93	80%
R1	87,228	\$ 9,173,169	\$ 105.16	92%
C1	96,076	\$ 10,120,000	\$ 105.33	92%
R1	90,592	\$ 9,889,882	\$ 109.17	95%
C1 & R1	94,015	\$ 10,750,764	\$ 114.35	100%
R1	83,039	\$ 9,781,750	\$ 117.80	103%
Subject	89,235	\$ 10,562,809	\$ 118.37	104%
R1	80,117	\$ 9,709,673	\$ 121.19	106%
R1	93,201	\$ 12,099,694	\$ 129.82	114%
Median	90,592	9,889,882	\$ 114.35	

[21] The evidence of both parties indicates that the subject's \$118.37 per sq.ft. assessment rate falls within the range of assessment rates, and is within 4% of the median assessment rate of all of the relevant comparables before the Board. In the absence of specific value adjustments to relate the comparables to the subject property, the Board accepts that the subject is equitably assessed in relation to similar properties.

The assessment is **CONFIRMED** at: **\$10,560,000.**

DATED AT THE CITY OF CALGARY THIS

17

DAY OF AUGUST, 2012.


 J. Krysa
 Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Submission (101 pages)
2. R1	Respondent's Submission (77 pages)

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Multi Tenant	Sales Approach	Market Value; Equity