

**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:

**Canadian Property Holdings (Alberta) Inc. c/o CREIT Management
(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:	200094639
LOCATION ADDRESS:	2880 45 Ave SE
HEARING NUMBER:	67929
ASSESSMENT:	\$27,840,000

The complaint was heard on July 05, 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 16.621 acre parcel of land, improved with four, multi-tenanted industrial warehouses with a combined footprint area of 272,864 sq.ft. (square feet). The improvements reflect a site coverage ratio of 37.69%, and are described as follows:

Improvement Footprint	Assessable Improvement Area	Year Built	Finish %	Assessment	Assessment per Sq.Ft.
80,390	85,390	1999	17%	\$ 8,524,887	\$ 99.83
144,645	144,645	2000	14%	\$ 13,556,427	\$ 93.72
28,015	28,015	2002	30%	\$ 3,281,032	\$ 117.12
<u>19,814</u>	<u>19,814</u>	2002	43%	<u>\$ 2,481,653</u>	\$ 125.25
272,864	277,864			\$ 27,844,000	\$ 100.21

Issues

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

3. an assessment 4. an assessment class

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 15 grounds for the complaint in section 5 of the complaint form with a requested assessment value of \$24,890,000; however, only the following issues were in dispute at the hearing:

Issue 1: The assessment of the subject property is inequitable in relation to the assessments of similar properties.

Issue 2: The assessment of the subject property is based on an incorrect improvement size.

Complainant's Requested Assessment

At the hearing, the Complainant requested an assessment of \$22,350,000.

Board's Decision in Respect of the Issues:

Issue 1: The assessment of the subject property is inequitable in relation to the assessments of similar properties.

[4] The Complainant argued that the assessment of the subject property is inequitable in relation to the assessments of industrial properties of similar total size as a result of the valuation methodology employed by the Respondent. The Complainant submitted that the Respondent has established the value of each of the four improvements, as if each was situated on a separately titled parcel and could be sold independently of the remaining three structures, as evident in the wide range of assessment rates from \$93.72 to \$125.25 per sq.ft.

[5] In support of the argument, the Complainant provided a summary of the assessment values and physical characteristics of thirteen, southeast industrial properties ranging in total size from 125,702 to 378,950 sq.ft. The improvements are situated on parcels ranging in size from 6.16 to 18.04 acres, and reflect site coverage ratios ranging from 32% to 59%. The assessments range from \$70 to \$108 per sq.ft. of improvement area, with a median rate of \$82 per sq.ft., in contrast to the subject's overall assessment rate of \$100 per sq.ft.

[6] The Complainant submitted that as there is no obvious single-best comparable in the sample, the median rate of \$82 per sq.ft. is a reasonable estimate of the subject's market value. It was argued that the rate is supported by the property located at 4841 47 St SE; similar to the subject, with only an 11% variance in site coverage ratio and also assessed at \$82 per sq.ft. The Complainant further argued that the property located at 4800 52 St SE demonstrates the upper limit of value for the subject, at \$91 per sq.ft., as this property exhibits a similar site coverage ratio, year of construction, and greater proportion of interior development.

[7] The Respondent argued that the Complainant is not entitled to put forward an "equity" argument in the absence of first establishing the subject's market value with market evidence. The Respondent submitted that this prerequisite has been clearly established in the matters of *Bramalea Ltd. v. British Columbia (Assessor for Area 9 (Vancouver))* (B.C.C.A.), [1990] B.C.J. No.2730, and *Bentall Retail Services et al v. Assessor of Area #09 – Vancouver*, 2006 BCSC 424, and provided the Board with a two page document entitled, "Bramalea and Bentall Decision Overview", setting out the Respondent's position in detail.

[8] The Respondent argued that the subject's various rates of assessment from \$93.72 to \$125.25 per sq.ft. reflect the various construction costs for the different sized buildings, and further, that the range of market rents attainable correspond to the estimated market values. In support of the argument, the Respondent provided the subject property's ARFI (Assessment Request For Information) to demonstrate that the subject's two larger buildings exhibit a weighted average base rent of \$7.53 per sq.ft. in contrast to the \$8.53 per sq.ft. weighted average base rent of the subject's two smaller buildings.

[9] The Respondent further submitted that a negative multi-building coefficient is applied to reflect the difference in value between multi-building properties and single building properties.

[10] In support of the assessment, the Respondent provided a summary of the estimated market values and physical characteristics of seven, southeast Calgary, industrial buildings located on multi-building sites, ranging in size from 23,024 to 171,274 sq.ft. The improvements are situated on parcels ranging in size from 2.22 to 18.04 acres, and reflect site coverage ratios ranging from 23.36% to 38.78%.

[11] The three comparables under 30,000 sq.ft. exhibit assessments ranging from \$111.58 to 138.96 per sq.ft., in contrast to the assessments of the subject's two smallest buildings at \$117.12 and \$125.25 per sq.ft. The two comparables of an approximate size of 80,000 sq.ft. exhibit assessments of \$104.36 and \$119.78, in contrast to the assessment of the subject's 85,390 sq.ft. building at \$99.83 per sq.ft. The remaining two comparables (common to exhibit C1), with an approximate size of 160,000 sq.ft. exhibit assessments of \$90.04 and \$91.13, in contrast to the assessment of the subject's 144,645 sq.ft. building at \$93.72 per sq.ft.

[12] In response to an inquiry from the Board as to the derivation and specific amount of the multi-building adjustment, the Respondent submitted that he was unaware of the number of sales of multi-building properties included in the multiple regression analysis, and was not prepared to disclose the specific multi-building coefficient to the Board.

Decision: Issue 1

[13] The Board finds that there was insufficient evidence to demonstrate that the assessment is inequitable in relation to the assessments of similar properties.

[14] The Board rejects the Respondent's submission that the Complainant is not entitled to advance an "equity" argument before the Board in the absence of first establishing the subject's market value with market evidence. Where the Complainant concedes that the Respondent's assessments properly reflect the market values of the properties, it makes little sense to compel the Complainant to provide market evidence only to confirm the Respondent's estimates of value before an equity comparison can be examined. The Board notes that in this instance, both parties agreed that the assessment values in evidence represent market value as required by the legislation, and neither party presented market evidence to support or refute the market value assessments before the Board.

[15] Notwithstanding the above, the Board does not find the Complainant's equity analysis to be compelling evidence of an inequity, as the sample properties are not only dissimilar to the subject, but dissimilar even amongst themselves. Although the properties exhibit assessment rates ranging from \$70 to \$108 per sq.ft., a variance of 54.2%, the Complainant failed to make any value adjustments to relate the physical characteristics of the comparables to the physical characteristics of the subject. The Board is not persuaded that the median assessment rate of a sample of dissimilar properties, demonstrates an inequity in assessment.

[16] The Board is also not persuaded that the property located at 4841 47 St SE, and assessed at a rate of \$82 per sq.ft. is sufficiently similar to the subject property. Although the size of the improvement at 235,576 sq.ft. may be somewhat similar to the subject's overall improvement size, the subject's 16.62 acre parcel size is 55% greater than the 10.68 acre parcel size of the comparable.

[17] The Board accepts that the Respondent's equity comparables appear reasonable and support the individual building estimates of market value; however, the Board notes that the comparables do not address the issue of aggregate size in respect of multiple building properties. Moreover, the Board is somewhat confused by the Respondent's submissions in respect of the "multi-building" coefficient. Although the Respondent argued that multi-building properties attain a higher market value than single building properties of similar aggregate size as a result of their higher construction costs and higher achievable rental rates, the Respondent submitted that the applied multi-building coefficient reflects a negative value adjustment.

[18] The Board applied no weight to the Respondent's argument that the subject's multiple buildings would attain a higher market value due to their higher construction costs and higher attainable rents. There was no evidence provided to demonstrate that construction costs (per sq.ft.) are greater in respect of multi-building properties than single building properties of similar aggregate size, and no market evidence to demonstrate that those higher construction costs would be recaptured in a sale of a multi-building property. Moreover, the Board rejects the Respondent's argument that spaces in small buildings within a multi-building property attain higher rental rates than similar spaces in large buildings. In examining the recent leasing activity in the Respondent's ARFI evidence, the Board could find no discernable variance in the lease rates of similar spaces located in either the small or large buildings.

Issue 2: The assessment of the subject property is based on an incorrect improvement size.

[19] The Complainant argued that the total assessable improvement area of the subject property is 272,611 sq.ft.; not 277,864 sq.ft. as set out in the Respondent's assessment explanation supplement. In support of the argument the Complainant provided a copy of the subject's ARFI document, date stamped "Received" by the Respondent on June 2, 2011, and the Tenant Rent Roll dated May 31, 2011, exhibiting a total rentable area of 272,611 sq.ft.

[20] The Respondent argued that the Complainant is responsible to bring factual errors to the attention of the Respondent during the municipality's public consultation process, and well in advance of the complaint disclosure dates. The Respondent further argued that the Complainant did not provide an indication of how a corrected improvement size would affect the value of the property, and submitted that the 1.89% size variance would not result in a significant change in the assessment.

[21] The Respondent submitted that there was no evidence the assessed area was incorrect, and argued that the size variance between the ARFI and the assessed area may be attributable to an upper floor area that is not specifically identified on the ARFI; however, the Respondent conceded that he had not inspected the interior of the property, and his argument was based only on speculation.

Decision: Issue 2

[22] The Board finds that the assessment of the subject property is based on an incorrect improvement size. The assessable building area of "Building 1" is 80,137 sq.ft.; the total assessable building area of the subject improvements is 272,611 sq.ft.

[23] The subject's ARFI and tenant rent roll evidence, included in both Parties' submissions, is compelling evidence of the total size of the subject improvements. The Board was not persuaded by the Respondent's speculation in respect of the size variance, as there was no evidence to support the Respondent's theory.

[24] The Board further rejects the Respondent's argument that the Complainant is responsible to bring factual errors to the attention of the Respondent during the municipality's public consultation process, and notes the Respondent's reluctance to concede to the issue at the hearing, despite his own ARFI evidence demonstrating a factual error. Although the Board encourages early dialogue between the Parties in respect of any assessment issue, the Complainant is not legislatively obligated to notify the Respondent of any issue prior to filing a complaint. The legislated duty to prepare a correct assessment, in a fair and equitable manner, rests solely with the Respondent, not the Complainant.

The assessment is **REVISED** from: \$27,840,000 to: **\$27,310,000.**

DATED AT THE CITY OF CALGARY THIS

21

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 (33 pages)
2. R1	Respondent's Submission (127 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	Single Tenant	Sales Approach	Multi-Building; Equity