

**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:

**Hoopp Realty Inc. / Les Immeubles Hoopp Inc. c/o Tonko Realty Advisors Ltd.
(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:	200954733
LOCATION ADDRESS:	7115 48 Street SE
HEARING NUMBER:	68385
ASSESSMENT:	\$12,880,000

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 6.7 acre parcel of land, improved with an 111,500 sq.ft. (square foot) multi-tenanted industrial warehouse, reflecting a site coverage ratio of 38.2%. The improvement was constructed in 2007 and includes interior development of approximately 10% of the total floor area. The assessment equates to a unit rate of \$115.57 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 \$10,810,000; however, only the following issue was in dispute at the hearing:

Is the assessment of the subject property equitable in relation to the assessments of similar properties?

Complainant's Requested Assessment

At the hearing, the Complainant requested an assessment of \$11,030,000.

Board's Decision in Respect of the Issue

[5] The Complainant argued that the subject is inequitably assessed in relation to similar industrial warehouses. In support of the argument, the Complainant provided the Board with a summary of the physical attributes and assessments of seven multi-tenanted industrial warehouse properties located in the southeast region of the municipality. The improvements were constructed between 2000 and 2008, and range in size from 129,584 to 235,576 sq.ft. They exhibit site coverage ratios ranging from 32% to 58%, and contain interior development (finish) ranging from 0% to 35% of the total building areas. The assessments range from \$12,870,000 to \$19,200,000, and equate to a unit rate ranging from \$81 to \$110 per sq.ft. of improvement area, in contrast to the \$116 per sq.ft. unit rate of the subject property's assessment. The Complainant compared the subject to the smallest property in the sample, located at 9104 52 St SE, as set out below:

Address (SE)	Assessable Improvement Area (Sq.Ft)	Land Area (Acres)	Site Coverage Ratio	Year Built	Finish %	Total Assessment	Per Sq.Ft.
9104 52 St	129,584	8.89	32%	2005	23%	\$12,870,000	\$ 99
Subject	111,500	6.70	38%	2007	10%	\$12,880,000	\$ 116

[6] The Complainant argued that although the comparable is vastly superior to the subject in almost every respect, the total assessments are essentially identical. The subject improvement is 2 years older and 18,000 sq.ft. smaller than the comparable; the subject lot size is 2.19 acres smaller than the comparable, resulting in a higher (inferior) site coverage ratio than the comparable; with only the extent of interior development in the subject somewhat superior to that of the comparable.

[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 further argued that the subject property is superior to the Complainant's equity comparables and is appropriately assessed at a higher unit rate. The Respondent provided an analysis of the Complainant's sample of properties to demonstrate that the \$99 per sq.ft. median unit rate of the sample corresponds to a larger median improvement size, a higher median site coverage ratio, and a slightly higher median ratio of interior development.

	Assessable Improvement Area	Year Built	Interior Finish %	Site Coverage	Assessment Rate per Sq.Ft.
Median of Sample	152,912 sq.ft.	2007	10.11%	46.50%	\$ 99
Subject	111,500 sq.ft.	2007	9.73%	38.22%	\$ 116

[9] The Respondent submitted that the Complainant's sample demonstrates equity in assessment, as the subject is the smallest building of the sample and is appropriately assessed at the lowest total value of all of the properties in the sample. With respect to the Complainant's comparison of 9104 52 St SE to the subject, the Respondent submitted that the Complainant's two "South Foothills" equity comparables, assessed at \$81 and \$99 per sq.ft., are dissimilar to the subject property as a result of a negative adjustment applied to properties in that district to reflect the atypical nature of the area, and therefore are not relevant equity comparables.

[10] The Respondent also provided CARB 1836/2011-P, and submitted that a similar equity argument was rejected by the Board at the subject's 2011 assessment complaint hearing.

[11] With respect to the Respondent's contention 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 Complainant submitted that there is no dispute that the assessments in evidence properly reflect market value; the issue is only whether those estimates of market value are equitable in relation to one another. In summation, the Complainant argued that the Respondent failed to provide any evidence to the Board to demonstrate that the assessment is equitable in relation to the assessments of similar properties, and the only evidence before the Board is that of the Complainant.

Decision:

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

[13] 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.

[14] Notwithstanding the above, the Board was not persuaded by the Complainant's evidence in its entirety. The Board accepts that the Complainant's equity comparable at 9104 52 St SE clearly demonstrates an inequity; and the Board put little weight on the Respondent's testimony in respect of a "South Foothills" market adjustment, as there was no material evidence provided to support the testimony, or to quantify the \$99 per sq.ft. assessed rate of the comparable.

[15] Nevertheless, the Board is reluctant to make a determination of equity based on only one property. In review of the Complainant's remaining equity comparables, and specifically the other properties under 160,000 sq.ft. in size that were constructed in 2007 or 2008, the Board notes site coverage ratios ranging from 43% to 51% in contrast to the subject's site coverage ratio of 38%. In relation to these equity comparables that exhibit assessments ranging from \$102 to \$110 per sq.ft., the subject's assessment equating to a unit rate of \$116 per sq.ft. does not appear to be inequitable.

The assessment is **CONFIRMED** at: **\$12,880,000.**

DATED AT THE CITY OF CALGARY THIS 28 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 (17 pages)
2. R1	Respondent's Submission (140 pages)
3. C2	Complainant's Rebuttal Submission (22 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	Equity	Site Coverage