

**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:

AVB Holdings Ltd (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

D. Pollard, MEMBER

B. Bickford, MEMBER

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

ROLL NUMBER:	116009812
LOCATION ADDRESS:	6815 40 ST SE
HEARING NUMBER:	67134
ASSESSMENT:	\$9,320,000

This complaint was heard on the 18th day of June, 2012 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:

- Mr. J. Smiley (Altus Group Limited)
- Ms. J. Berdin observing

Appeared on behalf of the Respondent:

- Mr. I. Baigent (City of Calgary)
- Ms. M. Lau observing
- Mr. M. Ma observing

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

There were no concerns with the Board as constituted.

The Complainant noted the "City's Response To Assessment Information Request" was included in C-1 Appendix. The Complainant acknowledged that a "Compliance Review" had been initiated under Matters Relating To Assessment And Taxation (MRAT) 27.6(1). The Board advised the parties that no further discussion of that matter would be entertained as the forum for review is with the Minister.

There were no preliminary matters, the merit hearing proceeded.

Property Description:

The subject property is an 8.80 acre parcel located in the Foothills Industrial Park in SE Calgary. The site is improved with a 92,784 square foot (SF) multitenant industrial warehouse with 96,056 SF of Assessable Building Area, which was constructed in 1981. The site coverage is 24.22% and the building finish is 14%. There is a projection of land in the NW corner of the site that is bisected by a rail right-of-way. The subject is assessed at the rate of \$97.13 per square foot (PSF) using the Sales Comparison approach to value.

Issues:

The Assessment Review Board Complaint Form contained 15 Grounds for the Complaint. At the outset of the hearing, the Complainant advised that the only outstanding issue was "The aggregate assessment per square foot applied to the subject property is inequitable with the assessments of other similar and competing properties".

Complainant's Requested Value: \$7,550,000 (Complaint Form)
\$8,800,000 (Hearing)

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

Issue: Does the aggregate assessment per square foot applied to the subject property provide an assessment value that is inequitable?

The Complainant's Disclosure is labelled C-1.

The Complainant submits there is a projection of land which is bisected by a rail-right-of-way. This land is likely not developable, and is not capable of being subdivided. As such, there should be an allowance for the unique nature of the property and the fact that this land is likely not as valuable as if it was a rectangular portion of land that had street frontage.

The Complainant, at page 12, provided a list of purported Equity Comparables with Assessments per square foot (Asmt/SF) ranging from \$62 to \$88, noting the subject was assessed at \$97.

The Complainant submits the best comparable is located at 6520 40 ST SE with site coverage of 29% and Asmt/SF of \$88. Further, to bring the best comparable to "typical" site coverage of 30% would reduce the Asmt/SF to \$87. The Complainant asserts if the Asmt/SF of \$87 were applied to the total net rentable area (NRA) of the subject (96,056 SF), the resultant market value would be \$8,356,872.

The Complainant further submits the "irregular cut-off" portion of the subject (1.7 acres) should be considered extra land, the value of which can be calculated by utilizing the accepted unit rate for vacant industrial land of \$525,000 per acre to arrive at a market value of \$892,500. It further submits the value should be adjusted -25% for Limited Access/Uses, and -25% for Shape to arrive at a final market value for the "cut-off" portion of \$446,250.

The Complainant concluded the estimate of market value for the subject is therefore \$8,803,122 and requested an assessment of \$8,800,000.

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 15, provided a 2012 Industrial Sales Chart, which contained 8 sales with time adjusted sales prices per square foot (TASP/SF) ranging from \$122.09 to \$157.58, noting the subject is assessed at \$97.13.

The Respondent, at page 17, provided a 2012 Industrial Equity Chart, which contained 7 comparables with assessment per square foot (Asmt/SF) ranging from \$86.04 to \$111.93, again noting the subject is assessed at \$97.13.

The Respondent argued that the Complainant has not provided any market evidence to establish a range of market values. The respondent cited ***Bramalea Ltd. v. British Columbia (Assessor for Area 9 (Vancouver) (B.C.C.A.), [1990] B.C.J. No.2730 and Bental Retail Services et al v Assessor of Area #09-Vancouver, 2006 BCSC 424*** in support of his argument that equity alone is insufficient to alter an assessment.

The Complainant, thru rebuttal (C-2), submits the City's Comparables bear little or no resemblance to the subject. The Respondent noted the rebuttal contains a Chart entitled City's Industrial Sales Comparables which contains new evidence and should not be admitted. The Board agreed.

The Complainant cited the following case law in support of its argument:

Jonas v Gilbert [1881] S.C.J. No.5

Assessor for Area 09 (Vancouver) v Bramalea Ltd [1990] C.A.V. 00992

Bentall Retail Services et al v Assessor of Area 09 – Vancouver

Dutchcad Bil Investments Ltd et al v Assessor of Area 19- Kelowna

The Board recognizes the subject is not a typical industrial property due to its irregular shape and the presence of a rail line which bisects same, however there is no evidence to demonstrate a loss of functional utility. There is no market evidence to support that the assessment is not within a reasonable range of market value.

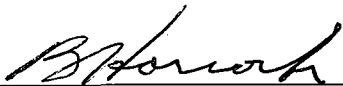
Board's Decision:

The 2012 assessment is confirmed at \$9,320,000.

Reasons:

There is no market evidence from the Complainant to establish a range of market values.

DATED AT THE CITY OF CALGARY THIS 12th DAY OF July 2012.



B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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	Multitenant	Sales Approach	Equity Only