

**CALGARY COMPOSITE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

Airstate Ltd. (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, C. J. Griffin, PRESIDING OFFICER
S. Roarke, MEMBER
J. Pratt, MEMBER***

There are complaints to the Composite Assessment Review Board in respect of the property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBERS: 054010608 & 054011200

LOCATION ADDRESSES: 1420 – 28 Street NE & 3016 – 10 Avenue NE respectively

HEARING NUMBERS: 61331 & 61329

**ASSESSMENTS: \$28,660,000 (Roll #054010608) &
\$14,830,000 (Roll # 54011200)**

These complaints were heard on 13 day of June, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *M. Uhryn*

Appeared on behalf of the Respondent:

- *J. Lepine*

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

The Respondent brought forward a preliminary matter related to the Complainant's written submission (Exhibit C-1) before the Composite Assessment Review Board (CARB) which they maintain was improperly exchanged and not in accordance with the requirements of Alberta Regulation 310/2009 Sections 8(2) and 9(2). The Assessor notified the Complainant by email on May 6/11 that a portion of their submission was not legible. The Complainant responded by email on that same day explaining that he was away from the office but that he would call the next week to determine an alternative to provide a clear version. The evidence package was resubmitted May 16/11 but the Assessor advised that he considered the exchange to be too late and that he was disadvantaged by having to wait 10 days for the alternative package and that he would be raising the matter at the Hearing and asking that the illegible pages be deemed inadmissible by the CARB.

The CARB reviewed the pages in question and found that portions of same were somewhat legible in their original form. The CARB does not find that the original exchange was in contravention of Alberta Regulation 310/2009 Sections 8(2) or 9(2) and that the pages in question would be accepted as evidence for the Hearing but would only be given such weight as the CARB felt would be reasonable given the questionable legibility.

Property Description:

Roll # 054010608 refers to the property located at 1420 – 28 Street NE. This is a complex of nine (9) multi-tenanted industrial buildings, one of which is, according to the Assessment Summary Report, approximately 80,488 Sq. Ft. in size while the remaining eight (8) range from 20,200 Sq. Ft. to 20,450 Sq. Ft. in size. All nine (9) of these buildings are all located on one common site and share one common legal description.

Roll # 0054011200 refers to a property located at 3016 – 10 Avenue NE. This is a complex of three (3) multi-tenanted industrial buildings which, according to the Assessment Summary Report range in size from approximately 51,540 Sq. ft. to 75,078 Sq. Ft. in size. All three (3) of these buildings are located on one common site and share one common legal description.

Issues:

While a number of inter-related issues were outlined on the Assessment Review Board Complaint form, at the Hearing and in their submission the Complainant reduced these to:

- 1) the subject properties are atypical in the market place and the assessment model fails

to accurately capture the unique a-typical aspects of the property,

2) the site layout is such that it does not provide good manoeuvrability for trucks requiring access to or from the site,

3) the income approach to value is the superior method to accurately estimate the market value of the subject property for assessment purposes.

Complainant's Requested Value: \$20,330,000 (roll # 054010608)
\$13,460,000 (roll # 054011200)

Complainant's Position

Roll # 054010608

In support for their contention that the subject property is a-typical to the Calgary Industrial market place, the Complainant submitted their Exhibit C-1 wherein they prepared an Income Approach to derive the requested assessed values for the subject property. Their reasoning for utilizing the Income Approach stems from their belief that the subject property, consisting of several buildings on one parcel of land, cannot be valued accurately through application of the Direct Sales (Comparison) Approach as has been applied by the Assessor. It is the contention of the Complainant that proper application of the Direct Sales Approach would include sales of similar properties consisting of more than one building on a site. Given the lack of such data the Complainant is of the opinion that the more accurate method of valuing the properties would be the Income Approach. In support for the inputs related to market rent the Complainant referred the CARB to Exhibit C-1 page 19 which provides 8 examples of market derived rental rates deemed comparable. Three of these consisted of current listings or offerings of space for rates ranging from a low of \$6/Sq. Ft. to \$7.25/Sq. Ft. for properties ranging in size from 79,333 Sq. Ft. to 121,622 Sq. Ft. Five of the comparable properties featured leases with commencement dates between January 2009 and August 2009. These properties range in size from 31,995 Sq. Ft. to 268,094 Sq. Ft. and the rental rates ranged from \$4/Sq. Ft. to a high of \$7.62/Sq. Ft. with an indicated median of \$6.75/Sq. Ft. Additionally the Complainant submitted (Exhibit C-1 pgs. 22 – 30) a copy of the rent roll from the subject property dated July 1/07. Based on this information the Complainant has applied a rental rate of \$7/Sq. Ft. In support of their applied 5.75% vacancy rate, the Complainant submitted (Exhibit C-1 pgs. 32 – 35) a copy of a Colliers International prepared Quarter 3 Calgary Industrial Market Report which reports the vacancy rate for the northeast segment of the industrial market place as being 5.75% as at July 2010. Typical operating costs of \$3.29/Sq. Ft. (being the operating costs for the subject property) were applied. In support of their applied 7.5% overall capitalization rate the Complainant submitted (Exhibit C-1 pg 37) a summary of 5 industrial sales with capitalization rates ranging from a low of 6.61% to a high of 7.6% with an indicated median of 7.48%. Having derived the required market based inputs, the Complainant completed the Income Approach, as shown on Exhibit C-1 pg. 63, which supports their requested assessed value of \$20,330,000.

Roll # 0054011200

The issues for this property are the same as those outlined above and the requested assessed value of \$13,460,000 is also based on application of the Income Approach. The Complainant submitted their Exhibit C-1 which is near identical to the above referenced Exhibit C-1; however, in this case the applied market rent is \$6/Sq. Ft. and the capitalization rate selected is 7.75%. All other inputs are the same as outlined above.

Respondent's Position

In defence of the assessed values the Respondent submitted their Exhibits R-1 for each of the subject properties. These Exhibits are near identical, except for property address, roll number and assessed value, so for the ease of the reader we shall simply refer to Exhibit R-1. It is the Respondent's position that application of the Sales Approach has resulted in a fair and correct assessed value(s) for the subject property. The Respondent provided 10 comparable sales (Exhibit R-1 pg 28) of industrial buildings seven (7) of which range in size from approximately 16,939 Sq. Ft. to 23,800 Sq. Ft. which had a mean selling price of \$134/Sq. Ft. The other three buildings were significantly larger with sizes ranging from 71,742 Sq. Ft. to 95,405 Sq. Ft. with a mean selling price of \$100/Sq. Ft. All of the sales were recorded between November 2007 and June of 2010. The Respondent further pointed out that the Assessor now, as shown on pages 30 and 31 of Exhibit R-1, applies a multi building adjustment based on the adjustments applied by the CARB during the 2010 Hearing year. As shown on page 31 of the aforementioned Exhibit R-1 there were 36 such properties which had their assessed values reduced by the CARB in 2010 and the average reduction was in the order of 9.47% and the median adjustment was 8.86%. The Respondent maintains that the modelling process, having made the necessary multi building adjustment, has generated a correct assessed value for the subject property; however, as a further test they have also applied the Cost Approach to value using the Marshall & Swift costing service. The Cost Approach as shown on page 38 of Exhibit R-1 (roll # 054010608) produced a value of \$30,866,985 as opposed to the assessed value of \$28,660,000. The Cost Approach for roll # 054011200 is shown on page 34 of that Exhibit R-1 and shows \$15,847,391 as opposed to the assessed value of \$14,830,000.

In response to the submissions of the Complainant, the Respondent pointed out several inconsistencies such as:

- 1) On page 37 of Exhibit C-1 (roll #054010608) under the heading Capitalization Rate, the Complainant's submission states *"The appropriate methodology for determining capitalization rates for assessment purposes is to re-create the Potential Gross Income for the property using market rental rates and market vacancy rates for the net rentable area to arrive at an economic estimate of Net Operating Income before deriving the capitalization rate for a property that sold recently."* Under questioning the Respondent was told by the Complainant that that was not the procedure they had followed but rather they had utilized the income in place at the time of the sale.
- 2) On page 36 of Exhibit C-1 (roll # 054010608) the referenced 'typical operating costs' were in fact the actual operating costs for the subject property and do not represent typical operating costs.
- 3) Referring to the rent roll presented in Exhibit C-1, the Respondent pointed out that most of the leases had expired since the rent roll had been generated in July of 2007. The Complainant indicated that all of the leases had been renewed at the existing rates; however, the Complainant had no evidence to support this contention.
- 4) Based upon exactly the same information and analysis of same the Complainant derived one capitalization rate for one of the properties and a different capitalization rate for the other property. When asked how this could be the Complainant was unable to provide a convincing answer.

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

The CARB finds that:

- 1) The subject properties are A-typical but the assessment model does apply the necessary multi building adjustment.
- 2) The Complainant's contention that the site layout (roll #054010608) is restrictive and does not provide for the ease of moving large trucks, is not supported by any evidence dealing with this issue.
- 3) The Income Approach to value is not, in this case, superior to the application of the Direct Sales Approach as the latter has incorporated a multi building adjustment.

Board's Decision:

The assessments are **confirmed** as follows:

Roll # 054010608 Assessed Value **\$28,660,000.**

Roll # 054011200 Assessed Value **\$14,830,000.**

Reason(s) for Decision

The CARB is of the judgment that the evidence of the Respondent was superior in all ways to that of the Complainant. The CARB concurs with the viewpoint of the Respondent as it relates to the Exhibit(s) of the Complainant and also finds same to be inconsistent in terms of how the capitalization rates were derived and applied to the subject properties.

The CARB is further of the judgment that the methodology employed by the Respondent, the Direct Sales Approach, is sound and, in these cases, accurate. The CARB was further convinced by the Respondent's application of the Cost Approach to test the values derived through application of the Direct Sales Approach.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF June 2011.



C. J. Griffin
Presiding Officer

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

| NO. | ITEM |
|------------|------------------------|
| 1. C1 | Complainant Disclosure |
| 2. R1 | Respondent Disclosure |

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.*