

**CALGARY
COMPOSITE 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:

***245070 Alberta Ltd./Reimer World Properties Corporation
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***S. Barry, PRESIDING OFFICER
R. Kodak, MEMBER
D. Morice, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

| | |
|--------------------------|--|
| ROLL NUMBER: | 201153053 |
| LOCATION ADDRESS: | 9915 52 St. S.E. Calgary, Ab. |
| HEARING NUMBER: | 63039 |
| ASSESSMENT: | \$6,300,000 |

This complaint was heard on 16th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *D. Mewha*

Appeared on behalf of the Respondent:

- *I. McDermott*

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

There were no Procedural or Jurisdictional matters raised at the hearing. Please see reference to common material in CARB 0865/2011-P.

Property Description:

The property under complaint contains two industrial warehouse/warehouse office buildings located in the South Foothills industrial district situated on a 7.63 acre elongated, triangular parcel that is classified under the Land Use Bylaw as Industrial – General (IG). One building was constructed in 1985 and has an assessable area of 10,535 square feet (sq.ft.) and is assessed at \$180/sq.ft. The second building was constructed in 1996 and has an assessable area of 28,740 sq.ft. and is assessed at \$153/sq.ft.. The site area and extra land are dealt with below.

Issues:

The Complaint Form raised some twelve issues or grounds of complaint which can be summarized, as follows:

1. The City has used the incorrect valuation method: the correct valuation method is the income approach.
2. The property details are incorrect as is the application of relevant influences.
3. The assessment is too high and reflects neither market value nor equity.

Complainant's Requested Value: The Complaint Form requested an assessment \$4,700,000. At the time of the hearing, this assessment request was revised to \$3,390,000.

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

1. At the hearing, the Complainant withdrew his request for a decision based on the income approach and, instead, based his request on equity, with respect to the assessment of other properties and by reference to the direct sales comparison.

2. There was confusion about the size of the site and the site coverage. The Assessment Summary Report shows the assessable land area as 8.87 acres but the Assessment Explanation Supplement sheet shows the parcel size as 7.63 acres. The latter is the correct number, according to the Respondent, as it accounts for road widening taken for 52 Street. The site coverage on the Supplement indicates 11% site coverage with 5.13 acres of extra land. The Respondent referenced CARB decision 0549/2010-P heard in 2010 on the subject property. At that hearing, and in reference to the lack of utility of the "sharp point" of the parcel, that Board increased the site coverage from an actual of 8.28% to 11%. The City carried that decision forward in this year's assessment. In any event, there appeared to be no additional land adjustment for extra or additional land.
3. The Complainant argued that, In terms of equity, the Board should rely on a property at 5515 98 Ave. S.E. (the Kindersley property) which is significantly larger than the subject at 19.60 acres and, although it has similar-sized buildings in the aggregate, the property is assessed at its highest and best use as land only. The Complainant argued that this land is used for purposes similar to the subject but is assessed at land value only and that creates an inequity with the subject where both the land and the buildings are assessed. For equity purposes, the Complainant identified several more parcels, but the referenced Assessment Summary Reports identify a mix of assessment property types with considerable variations in parcel and building sizes and even locations relative to South Foothills.

The Respondent argued that the City does not assess based on the tenant or on its actual use, but on its potential uses and constraints under the land use bylaw and with regard to any influences and market conditions, having regard to statutory requirements. The practice of the City is, when the income of a building does not support a value equal or exceeding the land value, then land values, at the highest and best use only are applied. To change the assessment related to property type would generate another set of inequities.

Servicing, or lack thereof to the Kindersley property was questioned in detailing the appropriateness of comparing that parcel to the subject. The information is not conclusive and is inconsistent with information provided at a subsequent hearing in the same area. The Board has determined that this information has little relevance in its final determination of the total assessment.

The Complainant then turned to sales comparisons to support an assessment request of \$4,320,250 based on \$110/sq.ft. These properties have been raised by this Complainant as comparables in other Complaints before this Board during this hearing week. Two of the three are smaller in size than the subject and the best of these two is compromised by virtue of its being a vendor lease back, the terms of which are unknown to the Board. The one property similar in size has much older buildings and the Board was given no direction on how that factor would influence the assessment or market value.

In addition to his comments on the comparables, the Respondent noted that the property has received the benefit of a negative multi-building adjustment as well as a negative adjustment for servicing issues in South Foothills. The Board notes that these adjustments are coefficients, subsumed in the model, and that they are not apparent nor can they be evaluated for equity or correctness purposes by the Board.

Having regard to all the issues and evidence raised and carried forward, the Board was not

convinced that the application of a land only approach was the appropriate equity argument for this property. Other than there is a difference, there was no compelling reason why that approach should be used for this property. The argument on equity failed. Nor did the Board find that the evidence on comparables supported a reduction in the assessment: there were too many points of divergence and too few points of convergence in the sales comparisons. There were also too few comparables presented on which to base a different judgement. Accordingly, the assessment stands.

Board's Decision:

The 2011 assessment is confirmed at \$6,300,000.

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



S. Barry, Presiding Officer

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

| NO. | ITEM |
|------------|---|
| 1. C1 | Complainant's Disclosure |
| 2. R1 | Respondent's Disclosure |
| 3. C2 | Coloured photo submitted from R1 as Complainant evidence |
| 4. C3 | Complainant's 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.*