

**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:

***The Great West Life Assurance Company (as represented by Colliers International),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. J. Griffin, PRESIDING OFFICER
S. Rourke, MEMBER
J. Pratt, MEMBER***

This is a complaint to the Composite Assessment Review Board 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: 009003096

LOCATION ADDRESS: 930 – 64 Avenue NE

HEARING NUMBER: 62902

ASSESSMENT: \$12,370,000.

This complaint was 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:

As with the two cases immediately preceding this Hearing, the Respondent brought forward a preliminary matter related to the Complainant's written submission (Exhibit C-1), which is essentially near identical to the submissions for the previous Hearings (#61329 & 61331), submitted to 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:

The subject property is reportedly a 118,402 Sq. Ft. multi-tenant industrial building that was originally built in 1997. The building sits on a 6.40 acre site, resulting in a 46.18% site coverage. The property features approximately 8% office finish. The property is fully leased to three independent tenants.

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) application of the Income Approach to Value is a more accurate test of value for the subject property as opposed to the Direct Sale (Comparison) Approach as applied by the Assessor.
- 2) The assessed area of the subject building is incorrect as the Assessor has assessed 128,693 Sq. Ft. as opposed to the actual 118,402 Sq. Ft. that has been assessed in the past.

Complainant's Requested Value: \$10,380,000 (revised at the Hearing)

Complainant's Position

The Complainant contends that there were insufficient sales of similar properties to accurately apply the Direct Sale Approach, hence their application of the Income Approach. In order to support their applied market rental rate of \$7.25/Sq. Ft. the Complainant referred the CARB to

Exhibit C-1 page 12 (one of the pages referred to in the Preliminary Matter) 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 pg. 8) a copy of the rent roll from the subject property dated December 31, 2009 showing the building to be fully leased at an average rate of \$7.33/Sq. Ft. In support of their applied 5.75% vacancy rate, the Complainant submitted (Exhibit C-1 pgs. 15 – 18) 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 one of the properties heard earlier in the day by the same CARB panel) were applied. In support of their applied 7.5% overall capitalization rate the Complainant submitted (Exhibit C-1 pg 20) 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 the last page of Exhibit C-1, which supports their requested assessed value of \$10,380,000.

Respondent's Position

In defence of the assessed value the Respondent submitted their Exhibit R-1. It is the Respondent's position that application of the Sales Approach has resulted in a fair and correct assessed value for the subject property. The Respondent provided 5 comparable sales (Exhibit R-1 pg 27) of industrial buildings ranging in size from approximately 55,054 Sq. Ft. to 128,693 Sq. Ft. with a mean selling price of \$100/Sq. Ft. which the Assessor maintains fully supports the current assessment \$96/Sq. Ft.

With regard to the issue of size, the Respondent referred to the 3rd party sales reports dealing with the subject property (Exhibit R-1 pgs. 23 – 26) both of which refer to the subject as being 128,693 Sq. Ft. in size.

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

- 1) On page 20 of Exhibit C-1 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 19 of Exhibit C-1 the referenced 'typical operating costs' were in fact the actual operating costs for one particular property and do not represent typical operating costs.
- 3) Based upon exactly the same information and analysis submitted by the Complainant in support of another property assessment complaint that was heard by this same CARB panel, the Complainant derived a different capitalization rate than had been derived for that 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) There were sufficient sales to accurately apply the Direct Sales (Comparison) Approach to derive an estimate as to the assessed value of the subject property.
- 2) There was no evidence to show that the subject property had been altered or expanded which would support the building size differential between the 2010 assessment year and the 2011 assessment year.

Board's Decision:

The assessment is **reduced** as follows:

Roll # 009003096 Assessed Value **\$11,380,000.**

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 with the exception of the size matter. The CARB concurs with the viewpoint of the Respondent as it relates to the Exhibit of the Complainant and 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.

With regard to the issue of size, the CARB found that the Assessor has relied upon unsubstantiated 3rd party information (sales data) to adjust the assessed size from 118,402 Sq. Ft. as was assessed in 2010 to 128,693 Sq. Ft. as assessed in 2011 and did no further research to verify the correct size. Accordingly the CARB is of the judgment that the 2010 size is the correct size to be assessed pending a re-measurement of the building.

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.*