

**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:

***Marcoux Bros. Trucking Ltd./Yanke Group of Companies-SK
(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: 119008894

**LOCATION ADDRESS: 9416 40 St. S.E.
Calgary, Ab.**

HEARING NUMBER: 64430

ASSESSMENT: \$5,140,000

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:

No Procedural or Jurisdictional Matters were raised. The Parties noted, however, that many of the issues and arguments in six of the Complaints before the Board during this hearing week of June 13, were very similar and that similar comparables and evidence would apply in whole or in part to each of the Complaints. The Parties requested that common argument, questions and responses be carried forward where appropriate. The Board acceded to that request and note that it applies to the following decisions and hearing numbers in addition to the subject: 0866/2011-P (64521); 0857/2011-P (63039); 0864/2011-P (64354); and 0858/2011-P (63442).

Property Description:

The property under complaint is an industrial warehouse located in the South Foothills industrial district on an 8.91 acre parcel that is classified under the Land Use Bylaw as Industrial – General (IG). There are two buildings on the parcel, both constructed in 1978: one has a rentable building area of 13,460 square feet (sq.ft.) and is assessed at \$166 per sq.ft.; the other has a rentable building area of 20,670 sq.ft. and is assessed at \$140 per sq.ft. The combined buildings represent 7.88% site coverage and the 2011 Assessment Explanation Supplement notes that there is extra land in the amount of 6.57 acres.

Issues:

The Complaint Form raises 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: \$3,760,000

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

1. During the course of the hearing, the Complainant advised that he was abandoning his request for an assessment based on the income approach and would accept the methodology employed by the Respondent, that being the Direct Sales Comparison.
2. The Complainant's issue with respect to property details appeared to reflect the Supplement notes that there is extra land. The Respondent did not, however, apply an adjustment for land. Further argument was not advanced once this was clarified. Other issues regarding possible adjustments for various influences were not advanced with the exception of South Foothills servicing adjustments.

The only other issue affecting the condition of the property was a change in land use from the time of sale that the Complainant says does not affect the value of the parcel. This argument was dealt with under the decision on market value and equity.

3. The subject property sold in November 2007 for \$4,000,000. The Complainant provided evidence of the sale through a RealNet Transaction Summary as well as an Alberta Data Search report and Alberta Land Titles documentation that support the sale.

In 2010 the MGB reduced the 2009 assessment of \$5,410,000 to \$4,000,000 and later, also in 2010, CARB decision 1242-2010-P reduced the 2010 assessment from \$6,140,000 to \$3,760,000 in part because that amount reflected the time adjusted sales price (a net negative adjustment of 6% between 2007 and 2009) as reflective of current market value at the time relevant to the assessment. The Complainant noted that the market in the last year had been flat and the City applied no further time adjustment to industrial warehouse properties between 2009 and 2010.

In further support of the requested assessment, the Complainant provided two sales comparables (9415 48 St. S.E., and 6215 86 Ave. S.E.). These sales occurred in June and October of 2009 for \$3,900,000 and \$2,575,000 respectively and required no time adjustment. They are, however, approximately half the size of the subject parcel with newer buildings. The first sale at 9415 48 St. S.E. appeared to be a vendor lease back and the Board accorded it little weight since no other details about the sale were made available. The second sale described a property with only one building, of somewhat newer construction that occupies approximately 22 per cent of a smaller site.

The Respondent provided one comparable that is the same as the Complainant's: 9415 48 St. S.E., which has been dealt with above and another in the Valleyfield area, quite some distance from the subject. The Complainant argued, and the Board concurs, that this property is located in a much different area than South Foothills, without the negative influences of partial services and sizeable local improvement levies. It is not a good comparable. The Respondent provided other material on the sale of 6215 86 Ave. S.E., noting a Vendor's Lien, the effect of which could not be determined.

The Respondent argued that a change in the land use classification in 2008 positively affected the value of the property and that this was not recognized in previous decisions. In 2008 the City of Calgary implemented the adoption of a new land use bylaw, 1P2007, that changed the land use district on the subject lands from I-4 to IG. Site coverage under I-4 was restricted to 10% of the site. The new district permits more extensive site coverage,

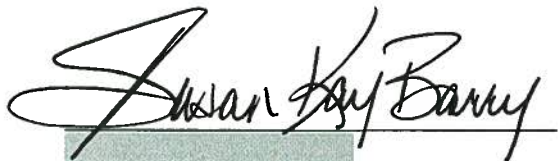
thus enhancing the market value. The Complainant responded that when the lands were sold in 2007 the new Land Use Bylaw was well under way as evidenced by the bylaw number (IP2007) and that any prudent sellers and purchasers would have been aware of the proposed changes and accounted for them in the purchase price. The Board agreed. The common and everyday experience of the Board is that these land use changes do not happen overnight and are subject to considerable public review and comment well before the adoption of the bylaw or its implementation date.

In summary, the Board did not place much, if any, weight on the comparables provided by either party. Nor did the Board accept that additional value can be imputed to a bylaw change that would have been well-advanced, if not actually adopted, in the same year as the sale. While the sale of the subject in 2007 would normally be considered dated, it is clear that the City's time adjustment factors support the assessment requested and that the time-adjusted sale represents the best indicator of market value. The Board, therefore, reduced the assessment.

Board's Decision:

The 2011 assessment is reduced to \$3,760,000

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	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.*