

**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:

Petwin Fairview Corp. (as represented by Linnell Taylor & Associates), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
K. Coolidge, MEMBER
P. Pask, 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:	112142708
LOCATION ADDRESS:	7905 Flint RD SE
HEARING NUMBER:	65407
ASSESSMENT:	\$4,260,000

This complaint was heard on 26th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *Mr. D. Sheridan - Linnell Taylor & Associates*

Appeared on behalf of the Respondent:

- *Mr. G. Bell - Assessor – City of Calgary*

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is a multi-tenant (IWM) industrial warehouse property in the Fairview industrial area of southeast Calgary. It is improved with a 1971 era five-bay warehouse building used by small business. The building footprint is 33,502 SF but the assessable area (including upper office and mezzanine) is 42,660 SF. The 2.08 acre property is assessed as having an aggregate of 67% office/retail finish; 37.02% site coverage; and is assessed at \$99.85 per SF of assessable area, for an indicated value of \$4,260,000.

[4] Issues:

1. The assessment is incorrect because the office/retail area calculated to be 67% of the subject is erroneous and should be 36.84%.
2. The subject is assessed in excess of market, based on analysis of comparable properties.

[5] **Complainant's Requested Value:** \$3,190,000

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

Issue #1

[6] The Complainant clarified that he disagreed with the City's assessment for the subject because the building's property manager had "confirmed" alternate measurements for various assessable components of the building. He provided and referenced an e-mail communication and floor plan sketch dated April 18, 2012 from the manager wherein the manager stated;

"Here is a ground floor plan for 7905 to 7909 Flint Road. (sic) I have drawn in the demise between finished and unfinished, and estimated the approximate size of each. This will at least get you close on a percentage basis."

[7] The Complainant clarified that he had calculated the unfinished space in the subject from the manager's sketch estimations to be 26,942 SF. He then concluded that the "conventional finished space" should therefore be 15,718 SF, based on a total building assessable area of 42,660 SF. He then concluded that the percentage of finished space should be 36.84% or 37% (rounded) and not the assessed 67%.

[8] He also conceded that the photocopies of the floor plan prepared by the building manager as submitted to the Board and Respondent were largely illegible. He noted that the building manager was not in attendance at this hearing to respond to questions from either the Respondent or the Board. The Complainant confirmed that he had visited the subject several times in recent months.

[9] The Respondent clarified that the City had also visited and inspected and measured parts of the subject on August 9, 2010. However, they were only able to gain access to and measure 3 of 16 defined areas – four areas were non-accessible. Measurements for nine other spaces were obtained from City records via Assessment Request For Information (ARFI) documents submitted by the building owner.

[10] Nevertheless the Respondent noted that as a result of the site visit, the City had made certain corrections to its database for the subject, corrections that were reflected in the 2012 assessment calculations. In particular the City had reduced the office/retail finished area from a previous 100% to 67% of total assessable area. However, the Respondent did not provide any building plans to either the Complainant or the Board to substantiate the currently perceived demised assessable areas.

Board's Findings - Issue #1

[11] The Board finds that while there was considerable discussion and conflicting data sets regarding the distinct and separate assessable areas in the subject, the Board is still unclear as to the correct assessable areas in the subject.

[12] The Board finds that the sketch plan of the subject as supplied by Complainant from the building manager is not legible. In addition, the building manager makes it clear that his diagrammed dimensional data consists of "estimates" that will "get you close". This data is considered unreliable and hence no weight can be placed upon it.

[13] The Board finds that the building manager who provided key data, and e-mail communication to the Complainant about the data, is not in attendance at this hearing. Therefore he is unavailable for questioning to clarify any of the several questions about it from the parties involved.

[14] The Board finds that the City's dimensional data for the subject which is partly based on a site inspection, also appears unreliable. It is cobbled together from a variety of sources which includes both measured and unmeasured areas, and evidently estimated areas from the owners via the ARFI for the subject. It is clear to the Board that a joint, proper, and complete site inspection of the subject, measuring all defined areas, needs to be undertaken by the parties.

[15] The Board finds that due to conflicting, speculative, and undefined data, it can make no determination regarding this issue other than to accept the City's current assessable areas at face value.

Issue #2

Complainant position

[16] The Complainant outlined the relevant identifying characteristics of the subject, suggesting that the Land Use zoning for the site is "I-G Industrial – General".

[17] The Complainant provided a matrix of two market sales – one, an IWS property at 7475 Flint RD SE in the Fairview industrial area; and, an IWM property at 4020 – 9 ST SE in Highfield industrial area. The first site sold in June of 2011 and the second site sold in March of 2011. The Complainant argued that because these two sales were within 4 months of July 1, 2011 – the effective date, no time adjustment to the selling prices were required.

[18] The Complainant argued that notwithstanding that one of his comparables is an IWS site and the other an IWM site, the individual characteristics of each of his two comparables closely match those of the subject. He noted that the selling prices for both sites at \$81 and \$80 per SF respectively, produced a weighted mean of \$80.50 per SF. Based on this data the Complainant argued that the subject should be assessed at \$80 per SF, resulting in an assessed value for the 42,660 SF improvement of \$3,410,000.

[19] The Complainant produced two matrices containing limited data from selected market sales of purported 43 Multi-tenant (IWM) and 87 Single-tenant (IWS) warehouses. The sales were said to be part of a total 130 Calgary sales that had occurred over a 30 month period from January 2009 to June 30, 2011. The properties are predominantly located in the NE and SE quadrants of the city and range in size from 1,500 SF to 196,000 SF.

[20] Based on analysis of this data the Complainant concluded that IWM properties tended to sell for \$109.92 per SF and IWS properties tended to sell for \$119.24 per SF, a difference of 7.82%. Therefore he applied a negative 7.82% adjustment to his comparable #1 to compensate for it being an IWS structure.

[21] The Complainant provided two additional matrices – one containing seven market sales of properties ranging in size from approximately 80,000 to 100,000 SF, and a second matrix containing ten sales of properties ranging in size from approximately 40,000 to 60,000 SF. The Complainant concluded from analysis that a 9.57% value difference existed between the two property size categories of \$101.81 and \$92.07 respectively. Therefore he opted to apply a negative 9.57% to his larger (83,255 SF) comparable #2 to align it with the subject (42,660 SF).

[22] The Complainant noted that his comparable sale #1 demonstrated 11% office/retail finish and comparable #2 – 18% finish. Therefore he provided two final matrices – one containing eighteen market sales of properties with office finishes in the 10% to 19% range, and a second matrix of 27 property sales with finishes from 20% to 40%. He concluded that the 18 properties demonstrated a weighted mean value of \$133.42 per SF while the 27 properties demonstrated a weighted mean of \$126.08 per SF.

[23] The Complainant concluded from his analysis that a 5.5% value difference existed between the two property size categories. Therefore he opted to apply a negative 5.5% "finish adjustment" to both of his comparables to align them with the subject.

[24] The Complainant concluded that he did not have to make any further adjustments to his two market sale comparables such as for site coverage or clear wall height, arguing that these characteristics closely matched those of the subject.

[25] Based on his adjusted calculations of value for his two market sale properties, the Complainant concluded that a market-based assessment of \$3,190,000 derived from 42,660 SF at \$75 per SF, is appropriate for the subject. He also argued that for equity purposes, his two market comparables demonstrated an equitable position vis-a-vis the subject.

Respondent position:

[26] The Respondent argued that the subject is not zoned "I-G Industrial General" as the Complainant has asserted, but is instead zoned a more valuable "I-C Industrial Commercial" and has been assessed as such. Therefore the Complainant is incorrect in his assumption that the subject would have lesser value in the market. He further argued therefore, that under Mass Appraisal, the basic premise of the Complainant in this regard is fundamentally flawed.

[27] The Respondent argued that the Complainant's several market sale matrices, which he used to derive certain value adjustments to his two market sale comparables, are unreliable. He noted that critical information such as type of building (ie IWS or IWM); date of sale; site coverage; size of structure; age of structure; parcel size; etc, is missing from the Complainant's data list such that they could not be compared to each other or to the subject. He indicated that the Complainant's data is merely an array of market sales from a point in time, and hence no weight should be placed upon his analytical conclusions developed from them.

[28] The Respondent argued that the Complainant's two market sale comparables required several adjustments to various characteristics, which, when combined, created quite large order of magnitude adjustments to each. He argued therefore that this process clearly indicates that the Complainant's two sales are not comparable to the subject.

[29] The Respondent provided extensive individual property characteristics for five time-adjusted market sales and compared them to the subject. He argued that these market sales more closely align with the subject and support its assessment. In particular he noted similarities of parcel size, site coverage, date of sale; and time-adjusted selling price per square foot. He also argued that the Complainant's market sales are not comparable to each other or to the subject since they are not time-adjusted and are larger in building area and site coverage.

[30] The Respondent provided three property assessment equity comparables – all IWM warehouses like the subject which he argued generally possess characteristics similar to the subject and support the assessed value. He noted that properties with a higher level of finish generally tend to be higher in value in the market.

Board's Findings - Issue #2

[31] The Board finds that the subject has been identified for the past two years in the City's Assessment Explanation Supplement as being zoned "I-C Industrial Commercial" and not "I-G Industrial General" as suggested by the Complainant.

[32] The Board finds that the Respondent is correct in his criticism of the Complainant's methodology and analysis of thirty months of selected (130) market sales used to identify his preferred "adjustments". There is a distinct lack of supporting data for each of the market sales used, and thus the "adjustments" the Complainant derives therefrom, and uses to test his two market sale comparables, are subjective and unreliable.

[33] The Board finds that the Complainant's invalid and inappropriate methodology also renders the Complainant's adjusted market value conclusions unreliable.

[34] The Board finds that unlike the Respondent, the Complainant declined to time-adjust his March 2011 sale – one of two sales he submitted, which casts doubt on the comparability of one sale to the other, and to the subject.

[35] The Board finds that the Respondent's market sales and equity comparables are sufficiently detailed such that they can readily be compared to each other and to the subject. Accordingly the Respondent's market and equity data supports the assessment whereas the Complainant's does not.

Board's Decision:

[36] The assessment is confirmed at \$4,260,000.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF July 2012.


K. D. Kelly
Presiding Officer

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

NO.	ITEM
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure – Rebuttal
3. R-1	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.*