

**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:

Nabob Holdings Inc. (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:	090043704
LOCATION ADDRESS:	4822 Centre ST SW
HEARING NUMBER:	65366
ASSESSMENT:	\$3,570,000

This complaint was heard on 27th 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 14,410 square foot (SF) 1960 era single-tenant (IWS) industrial building (Alberta Boot Company Factory) with a 45,000 SF domed outbuilding used for golfing activities. The subject contains 2.06 acres of land; has site coverage of 16.03% (main building); 19,562 SF of assessable area; and is assessed at 100% office/retail finish. The 2012 assessment is \$3,570,000.

[4] **Issues:**

1. The percentage year-over-year increase in assessment for the subject is excessive.
2. The subject is an atypical structure in the market, and therefore it has been improperly assessed using the Market Approach to Value methodology.
3. The classification and valuation of the golf dome as an "outbuilding" in the assessment calculation by the City is erroneous, and improperly inflates the perceived market value of the subject.
4. The assessed level of office/retail finish in the subject at 100% is in error, and should be 65.78%.

[5] **Complainant's Requested Value:** \$2,850,000.

Board's Decision in Respect of Each Matter or Issue:**Issue #1:**

[6] The Complainant argued that the 54.55% annual year-over-year increase is unwarranted given that there have been no physical changes to the site and its improvements. He also argued that the increase is not reflected in his analysis of the market, which he considered to be "flat", over the past year.

[7] The Respondent argued that year-over-year percentage increases or decreases are not, of themselves, valid reasons to change an assessment.

Board Findings on Issue #1:

[8] The Board finds that year-over-year percentage increase/decreases are not, of themselves, valid reasons to change an assessment. The Complainant's argument fails regarding this issue.

Issue #2:**Complainant's position**

[9] The Complainant argued that the 1960 era main building on the subject is "atypical" relative to a "typical" industrial warehouse/manufacturing structure. He indicated that it is a partial two-storey, stucco-clad building built slab-on-grade that had previously been occupied by a series of businesses including golf equipment sales and a restaurant. He noted there is no loading dock or elevator, and a fork lift is used to move product back and forth from the main to the upper floors. The inflatable Golf dome was added to the rear of the site in 1997.

[10] The Complainant noted that he had toured the site on April 19, 2012 and had taken several interior and exterior photographs of the property which he provided. He argued that the photos confirm that the subject, built in 1960, is atypical. He also provided excerpts of undated "as built" building plans for the subject which dimensioned the exterior of the building but not the individual interior demised spaces.

[11] The Complainant argued that given the atypical nature of the subject, it should be valued not by the Market Approach to Value as the City had done, but instead by the more reliable Cost Approach to Value. In addition, he argued that to test his results from the Cost Approach, he used the Income Approach to Value. He suggested that:

"The Income Approach is considered the most reliable since the subject property is income producing and most of the inputs are known, particularly the actual rent rates, supported by the 2012 business assessment rates for the same premises."

[12] The Complainant provided a detailed **Cost Approach to Value** calculation for the site using Marshall and Swift. He detailed his various assumptions, including certain perceived negative influences such as parcel shape; adjacent LRT line; and access limitations. Using a

matrix of seven "small parcel" 2010/2011 industrial land sales, he calculated the subject's land value to be a median \$560,000 per acre (per Ac) and a weighted mean of \$574,338 per Ac. He opted to use \$575,000 per Ac in his calculation of value for the 2.06 acre site, leading to an indicated land value of \$1,236,000.

[13] The Complainant calculated that the indicated value of the entire property using the Cost Approach – including the golf dome, to be \$2,420,000.

[14] The Complainant provided a second calculation of value using the **Income Approach to Value**. In selecting inputs to his calculation, he used actual rents from the subject – both the main building and the golf dome being rented, and used typical vacancy and operating costs. For his Capitalization Rate he clarified that :

"A review of industrial sales over a 30 month period from January 2009 to June 2011 indicates a wide range between 6.0% to 12.0%."

[15] The Complainant argued that because of perceived limitations of the site that:

"A cap rate of 8.0%, below the mid-part of the preceding range, is considered appropriate."

[16] Using the noted inputs, the Complainant calculated that the indicated value of the subject using the Income Approach is \$2,850,000.

Respondent's position

[17] The Respondent argued that while the Complainant visited the site and took photographs, there is no clear evidence before the Board that the subject is not a typical industrial manufacturing and warehouse property. He argued that the Complainant has not provided any photographic or other evidence to clearly identify what he considers to be a "typical" industrial property, against which he is comparing the subject. Moreover, he considered the Complainant's photo evidence of the subject to be inconclusive.

[18] The Respondent argued that the Complainant's diagrams of the subject's interior lack specific dimensioned details of the demised areas and therefore it is difficult, if not impossible to determine the precise amount of space allocated to each use in the building. He argued that the Board should not rely on the subjective information the Complainant has provided on this point.

[19] The Respondent argued that the subject has been assessed using the Market Approach to Value methodology, however, the Complainant has not provided any market evidence to either support his position, or to refute the City's position. Instead, he noted, based on several untested or validated assumptions about the subject, the Complainant has relied entirely on the Cost Approach as tested by his Income Approach to Value calculations. He argued that the Cost Approach is generally used where a building is "unique" or "purpose built" and this was not the case with the subject.

[20] With respect to the Cost Approach, the Respondent noted the Complainant had provided certain "negative" adjustments – one of minus 25%, while estimating on the basis of his site inspection, a "chronological age" for the subject of 52 years and an "effective age" estimated at

35 years. Therefore a depreciation of 44% was charged in the calculation. The Respondent questioned the validity of these adjustments, and hence the accuracy of his final estimate of value of \$2,420,000.

[21] The Respondent noted that the Complainant had also made certain undocumented assumptions in his Income Approach to Value calculations which render his conclusions unreliable. He noted that the Complainant has used both actual and typical values as inputs to the calculation which is contrary to accepted appraisal practice.

[22] In particular the Respondent noted that the Complainant had identified an apparent range of Cap Rate values from 6% to 12% based on analysis of 30 months of market sales. However, he noted that none of the sales analyzed by the Complainant were entered into evidence for this hearing and could not be analyzed by the Respondent or the Board. He also noted that the Complainant had arbitrarily and subjectively selected an 8% Cap rate based on several unsupported assumptions he had made about the subject. Therefore, he argued, the Complainant's conclusions of value for the subject using the Income Approach are completely subjective and unreliable.

[23] The Respondent provided seven time-adjusted market sale comparables and one equity comparable which he argued supported the assessment. The sales values ranged from \$156.82 per SF to \$220.37 per SF whereas the subject was assessed at \$158.75 per SF.

Board Findings on Issue #2:

[24] The Board finds that there is insufficient evidence to support the Complainant's argument that the subject is atypical in the market.

[25] The Board finds that the Complainant's pictorial evidence of the subject is inconclusive for making any determination as to whether or not the subject is a typical or atypical building, since the Complainant has provided no other market evidence to which it might be compared.

[26] The Board finds that the Complainant has mixed both actual and typical values in his Income Approach to Value calculations, which is not industry-accepted methodology.

[27] The Board finds that the Complainant has used a subjective Cap Rate value in his Income Approach calculation which is not supported by any market evidence.

[28] The Board finds that the Complainant used subjective and unsupported values in his Cost Approach to Value calculations.

[29] The Board finds that the value conclusions for the subject that the Complainant has derived from his "Cost" and "Income" approaches to value, are unreliable.

[30] The Board finds that the Respondent's market and equity evidence supports the market-based assessment of the subject.

Issue #3:

[31] The Complainant argued that the inflatable golf dome on the site is an unusual structure and does not equate to the usual wood frame or metal outbuilding. He questioned whether it

should be assessed at all. Nevertheless, he argued that because it functions and occupies space on the property, the site area it covers should be included in the City's calculation of site coverage, which is an important factor in the City's assessment model. He argued that in the City's model a low site coverage increases property value, whereas a high site coverage results in a lower property value. Therefore, when the 45,000 SF of the inflatable golf dome is added to the 14,384 SF footprint of the main building, the total 59,384 SF, when applied to the 89,734 SF of the lot, results in a 66.18% site coverage. He argued that the assessed lower site coverage of 16.03% therefore, improperly results in a higher assessed value and this should be corrected.

[32] The Respondent argued that the inflatable golf dome is not a permanent structure and is properly assessed as an outbuilding. He noted it has no concrete floor and the nature of its shallow footings and inflatable fabric superstructure facilitate an easy removal. He indicated that he has inspected the site on several occasions. He confirmed that the City has consistently assessed this dome, and other similar dome structures, as outbuildings which are not factored into site coverage calculations.

[33] The Respondent confirmed that site coverage is in fact an important element in assessment calculations under Mass Appraisal since larger parcels like the subject, with low site coverage, may have "additional" or "extra" land which has value in the marketplace. The City's assessment model consistently captures this value which is reflected in the assessment.

Board Findings on Issue #3:

[34] The Board finds that the Respondent City has consistently assessed the subject golf dome and similar inflatable structures as outbuildings over several annual assessment cycles. Therefore it has assessed the subject in a fair and consistent manner.

[35] The Board finds that the Respondent City has a consistent practice of not including the ground floor coverage of an outbuilding in its "site coverage" calculations in the City's assessment model.

[36] The Board finds that the site coverage for the subject, given the parameters of the Respondent City's assessment model, is correct at 16.03%.

Issue #4:

[37] The Complainant argued that the ratio of office finish to unfinished warehouse space in the subject is 65.78% and not the 100% assessed. He again referenced the several photographs of the interior of the subject that he had taken during his April 19, 2012 site visit. As noted in Issue #2 above, he also provided excerpts of undated "as built" building plans for the subject which dimensioned the exterior of the building, but not the individual interior demised spaces. He calculated that considering the total 19,562 SF of building area, the ratio of "finished" to "unfinished" area is 65.78% based on a total 6,694 SF of what he considered to be unfinished space.

[38] The Respondent argued that as in Issue #2, the Complainant's photographs and diagrams of the subject's interior spaces, lack specific dimensioned details of the demised areas and therefore it is difficult, if not impossible to determine the precise amount of space allocated to each use in the building – i.e. just how much interior space is "finished" and how much is not.

He concluded that it appears from the Complainant's photo evidence that the subject may not have 100% interior finish as assessed. However, he argued that it is unclear as to precisely what areas in the subject should be considered "finished".

[39] The Respondent argued that the Board should not rely on the subjective information the Complainant has provided on this point. He also suggested that both the Complainant and the City should jointly conduct a site visit and take accurate measurements of all building areas to resolve this issue.

Board Findings on Issue #4:

[40] The Board finds that the Complainant's pictorial and diagrammed evidence of the subject is inconclusive regarding this issue, and the Board is unable to make any accurate determination as to the ratio of "finished" and "unfinished" areas in the subject.

[41] The Board finds that the 100% site finish ratio used in the assessment calculation appears to be incorrect, however the Board received no definitive evidence as to precisely what it should be.

[42] The Board finds that given the evidence before it in this hearing, it can make no adjustment to the 100% level of finish assessed.

[43] The Board finds the Respondent's recommendation that the parties jointly attend the site and definitively measure all affected areas in the subject, has merit.

Board's Decision:

[44] The assessment is confirmed at \$3,570,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF August 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.*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	Industrial warehouse	Single-tenant building	Market and Equity	Data correction