

**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:

N. G. Campbell Holdings Ltd. (as represented by AltusGroup), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, D. Pollard
Board Member 2, K. Farn***

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 2011 Assessment Roll as follows:

ROLL NUMBER: 116004805

LOCATION ADDRESS: 4444 – 72 Avenue SE

HEARING NUMBER: 63074

ASSESSMENT: 3,390,000.00

This complaint was heard on 20 day of June, 2011 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom One

Appeared on behalf of the Complainant:

- *Mr. John Smiley*

Appeared on behalf of the Respondent:

- *Mr. Ian McDermott*

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

At the outset of the hearing, the Respondent objected to the Claimant's rebuttal submission on the grounds that portions of the document represented new evidence not previously disclosed. Upon review, the Board finds that pages 13 to 15 were in fact, new evidence, and were not allowed to be presented. Pages 77 to 128 were also objected to by the City, but were allowed because they represented supporting documentation to previously presented evidence in the Capitalization rate study that was called into question by the Respondent. The last section objected to—pages 129 to the end of the document – was also allowed since they represented background information on capitalization rates contained in the Respondents own manual, and was not considered new information.

Property Description:

The property is a 31,680 s.f. single tenant, multi-bay warehouse, constructed in 1977, situated on 2.66 acres, located in Foothills Industrial Park. The gross building area is given at 32,064 s.f. The site coverage is 27.31 per cent.

Issues:

1. The sales from the geographic area and in the same size range as the subject are inconclusive in determining a value for the subject
2. The City's valuation model is not sufficiently stratified to produce credible valuation results.
- 2 The income approach to value produces a superior estimate of market value than the direct sales approach.

Complainant's Requested Value: \$2,400,000.00

Evidence

The board notes that the current assessment calculates to \$107.00 per s.f. of building area. At the outset of the hearing, the Complainant presented the Board with a capitalization rate analysis (Exhibit C-1) that would be applicable to this and a number of other complaints that bore some commonality to the complaint at hand. The study contained eight transactions from which an appropriate capitalization rate for two groups of buildings – constructed pre-1994 and post 1994, was extracted. No rationale for the 1994 demarcation was offered. The Complainant's

conclusion was that the appropriate capitalization rates for the two building groups was;
Pre-1994; 8.25 per cent
Post-1994; 7.75 per cent.

In the Evidence Submission, the Complainant outlined four comparable leases for premises in the Foothills Industrial Park. Base rents ranged from \$4.85 to \$6.25 per s.f. The low end is a post facto lease. The Complainant adopted a median rent of \$6.25 per s.f., stating that the rent adopted represented typical, or market levels, rather than actual rents. No description of the buildings, or the space occupied, was presented. In addition, it is noted that the stabilized rents contained in the complainant's capitalization rate study ranged from \$6.04 to \$12.40 per s.f. The median rent appeared at \$9.03.

The Complainant adopted a vacancy rate of 5.0 per cent for the income calculations. That rate was not controverted by the Respondent. Finally, the Complainant added 0.24 acres of excess land at a rate of \$525,000.00 per acre, to arrive at a total requested assessment of \$2,406,000.00

The Complainant then presented two comparable industrial transactions in the Foothills Industrial Park. In part, the Complainant stated that "*The two sales in similar size as the subject property are inconclusive in determining a market value. Without a clear value determination for the subject, one should look to an income approach as an alternative method*".

The Respondent presented seven sales comparables, two of which are common to the Complainant's. The time adjusted selling prices range from \$96.00 to \$171.00 per s.f. with a median of \$126.00. All but two of the comparables is newer than the subject. Site coverages bracket the subject's 27.31 per cent coverage. The interior finish ratios of the data range from 10 to 27 per cent, compared to three per cent for the subject. For this reason, all of the comparables are considered superior to the subject to some degree.

In response to the Complainant's income argument, the Respondent presented five rental comparables, reflecting rents ranging from \$7.00 to \$9.00 per s.f. The Respondent also submitted evidence that the actual rent applicable to the subject property was \$8.25 per s.f. That assertion was not controverted by the Complainant.

Board's Decision

As for the premise that income capitalization is the preferred method of valuation, this Board, in keeping with CARB Order #0522/2010-P, "*will not identify a preference as to which valuation approach should be used to determine the assessed value of any property. It is the assessed value that this Board is authorized to adjudicate. If any party can satisfy the Board, to the extent required by law, that in application of any applied approach to value errors have been made that have resulted in an incorrect assessed value, then it is those errors, supported by market based evidence, that should be given consideration*". That is not to say that an alternative method of valuation cannot be applied. However, any alternative method must be as equally well founded in market evidence as the method already being employed.

In the Board's opinion, the rental evidence presented by The Respondent, coupled with the actual rent of \$8.25 per s.f. for the subject is the most convincing. No evidence was introduced that would lead this Board to believe that the existing rent for the subject represented anything different than market rent. In the Board's opinion, this is the rent that should be applied in any

income calculations for the subject. That rent, reduced by five per cent for vacancy, and capitalized by the capitalization rate of 8.25 per cent, produces an indication of value of \$3,009,000.00 .

The \$3,009,000.00 amount equals \$94.99 per s.f of building area, which appears in line with the sale data submitted by both parties, when appropriate adjustments are made for interior finishing.

The revised assessment is truncated to \$3,010,000.00.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF July, 2011.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure; Industrial Capitalization Rate Analysis, 2011 Assessment Year
2. C2	Evidence Submission of the Complainant
3. C3	Rebuttal Submission of the Complainant
2. R1	Respondent Disclosure; Assessment Brief

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.*