

**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:**

***Brenntag Canada Inc. (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: 098003007**

**LOCATION ADDRESS: 3124 – 54 Avenue SE**

**HEARING NUMBER: 63840**

**ASSESSMENT: 4,120,000.00**

This complaint was heard on 21 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 Baigent*

**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 subject is an industrial property, comprised of a single tenant warehouse building, operated as truck terminal. The location is Foothills Industrial Park. The buildings contains 27,324 s.f. and was constructed in 1973. The site area is 4.10 acres. The site coverage is 13.01 per cent. The City has classified 2.32 acres as extra land.

**Issues:** ( paraphrased from the Complainant's submission)

1. *The subject industrial property is assessed at higher than its marker value.*
2. *This is evidenced by examining what this [property could earn in the marketplace for an arms-length lease. Leases are presented which show a typical rate for premises of this size range to be only \$5.50 per square foot, much less than the greater than \$10 psf required to achieve the assessed value.*
- 3.
4. Using inputs supported by Altus research, ie. 8.25 % capitalization rate and 5% typical vacancy, this indicates that the assessed value is too high.
5. Because of the low site coverage, the City has given a land value outside of the model. The deemed value is too high, as it contemplates that this land could be subdivided and separately developed.

**Complainant's Requested Value:** 3,380,000.00

**Evidence**

The board notes that the current assessment calculates to \$135.91 per s.f. of assessable area.

At the outset of the hearing, the Complainant referred the Board to 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.

The Respondent argued that the study was based on the leased fee interest, rather than the fee simple estate, and was therefore flawed. The Board does not agree, since that issue could only be determined by a review of the evidence submitted for each individual hearing.

In the Evidence submission, the Complainant presented five comparable transactions for comparison with the subject. The Complainant went on to say. *"There exist no strong indicators of value for the subject property among recently sold property. There are only two sales in the Foothills area in the same size range as the subject, and both are dated from 1979....."*

The Complainant then presented an Income Approach to value in which seven leases were shown. All of the premises are in South East Calgary. The base rates were \$4.85 to \$8.00 per s.f. Start dates for the leases were August, 2008 to October, 2010. The Complainant also noted that there is a ten year lease in place on the subject at \$8.89 per s.f. That lease was signed in 2001, and is the rate used by the Complainant in the Capitalization process.

The Complainant adopted a vacancy rate of 5.0 per cent. That rate was not controverted by the Respondent. Finally, the Complainant adopted a capitalization rate of 7.75 per cent.

No other evidence was presented by the Complainant.

The Respondent presented 12 sales comparables and seven "non-comparables". This Board will not deal with the "non-comparables". The properties submitted as being comparable to the subject reflect time adjusted selling prices ranging from \$120 to \$171 per s.f. The median is \$141.

In response to the Complainant's income argument, the Respondent presented five rental comparables, reflecting rents ranging from \$8.50 to \$12.30 per s.f. The Respondent also presented the Assessment Request for Information showing the current rental for the subject property at \$11.50 per s.f. The lease start date was shown as March, 2011. However, of greater interest to the board is the previous rent—from March 2008- at \$13.50 per s.f.

### **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.

The rent used in the Complainant's income calculations is now about 10 years old. That rent is not supported by the data submitted by the Complainant, nor is it supported by the Respondents evidence. Similarly, there are weaknesses in the capitalization rate study. On the one hand, those weaknesses are not considered of sufficient magnitude to totally eliminate the study from consideration. On the other, the results of the study are not convincing enough to outweigh or preclude the Respondents sales evidence, or the Respondents valuation methodology. In other words, the evidence presented by the Complainant was not sufficiently compelling to convince this Board that there is an error in the assessment

The assessment is confirmed.

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:**

<b>NO.</b>	<b>ITEM</b>
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- |    |                                                                                          |
|----|------------------------------------------------------------------------------------------|
| 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.*