

**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:

***WESTLAND INVESTMENT CO. LTD., COMPLAINANT
(Represented by Colliers International realty Advisors Inc.)***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. COLGATE
Board Member P. PASK
Board Member D. STEELE***

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: 090078502

LOCATION ADDRESS: 3919 BRANDON STREET SE

FILE NUMBER: 66165

ASSESSMENT: \$6,800,000.00

This complaint was heard on 24 day of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- Troy Howell, Colliers International Realty Advisors Inc. – Representing Westland Investment Co. Ltd.

Appeared on behalf of the Respondent:

- Magan Lau – Representing the City of Calgary
- Jason Tran – Representing the City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act").

[2] The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

[3] The subject property contains five industrial multi-bay warehouses located at 3919 Brandon Street SE in the North Manchester Industrial area. The structures, situated on a 5.02 acre parcel, have a combined total assessable building area of 46,355 square feet. Two structures were constructed in 1978, two structures were built in 1979 and the fifth structure was built in 1981. The site coverage is 21.21%. The subject property has been valued, based upon the Direct Comparison Approach, for \$6,809,320.00 or \$146.90 per square foot. An adjustment of 10% has been applied to the site due to shape factor.

Complainant's Requested Value: \$ 5,440,000.00

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

[4] In the interest of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[5] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

[6] Prior Assessment Review Board decisions were placed before the Board in support of the requested adjustment. While the Board respects the decisions rendered by those tribunals,

it is also mindful of the fact that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless issues and evidence were shown to be timely, relevant and materially identical to the subject complaint.

Issues:

Has sufficient recognition been applied to the assessment for the “unusually shaped land parcel”?

Complainant's Evidence

[7] At the outset of the hearing the Complainant advised the Board it did not have a copy of 2012 Assessment Explanation Supplement. The Complainant felt “the year over year change on the ‘Assessment Notice’ does not reflect a 20% adjustment we feel is warranted due to shape”. (C1, Pg. 3)

[8] The Complainant submitted aerial maps and photographs of the subject property to show the elongated shape of the property, tapering to a point in the northern end. (C1, Pg. 7-8)

[9] ARB 0549/2010-P was submitted by the Complainant in support of the request for a change to the assessment. A portion of the decision dealt with the issue of shape and any allowance applied in the quoted case. (C1, Pg. 26-31)

Respondent's Evidence

[10] The Respondent's sole evidence was a copy of the 2012 Industrial Assessment Explanation Supplement which showed a 10% adjustment to the assessment. The Respondent testified the adjustment was for shape of the subject parcel. (R1, Pg. 12)

[11] It was the Respondent's position the Complainant had failed to provide any market evidence to support its requested -20% adjustment to the assessment.

Findings of the Board

[12] The Board found a -10% adjustment has been applied to the subject property.

[13] In the quoted decision, ARB 0549/2010-P, a reduction of the site area was applied rather than an application of percentage reduction for shape factor. There was no decision to grant a percentage adjustment for the shape of the parcel.

[14] The Complainant had submitted no market evidence to support the request the adjustment be increased from -10% to -20% for the shape of the subject property.

[15] The Board found there was no market evidence to warrant a change to the assessment.

Board's Decision:

[16] On review and consideration of all the evidence before it in this matter, the Board found the Complainant had presented insufficient evidence to convince the Board the subject assessment was in error.

[16] The Board confirms the assessment at \$6,800,000.00.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF AUGUST 2012.

A handwritten signature in black ink, appearing to read 'P. Colgate', is written over a horizontal line.

PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R2	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.*

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004**Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

Part 1**Standards of Assessment****Mass appraisal**

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Multi Tenant	Cost/Sales Approach	- Shape Allowance