

**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:

1395838 ALBERTA 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: 090090705

LOCATION ADDRESS: 414 36 AVENUE SE

FILE NUMBER: 65922

ASSESSMENT: \$1,140,000.00

This complaint was heard on 25 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 1395838 Alberta 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.

[3] At the request of both the Complainant and the Respondent the hearings for roll numbers 090090705 and 101026300 should be cross referenced as the material being presented is essentially the same. In the interest of efficiency the Board had no objection to the request.

Property Description:

[4] The subject property contains a single industrial warehouse located at 414 36 Avenue SE in the North Manchester Industrial area. The structure, situated on a 0.34 acre parcel, has an assessable building area of 8,080 square feet. The site coverage is 54.07%. The subject property has been valued, based upon the Direct Comparison Approach, for \$1,143,602.59 or \$141.53 per square foot.

Complainant's Requested Value: \$ 808,000.00

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

[5] 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.

[6] 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 Sales Comparison Approach Valuation reports.

ISSUE:

Has the subject property been over assessed by the Direct Comparison Approach as a result of an incorrect rate per square foot?

Complainant's Evidence:

[7] The Complainant submitted sales of four sales of warehouse properties in the southeast and southwest quadrant of the City of Calgary – 1341/1345 Hastings Crescent SE, 4207 17 Street SE, 4240 16 Street SE and 404-406 Manitou Road SE and 5339 1A Street SW (C1, Pg. 32) The Board reviewed the information below:

Address	Community	Sold Date	YOC	Building Type	Building Area (SQ. FT.)	Land Size (Acres)	Site Coverage (%)	Assessed Value (\$)	Square Foot Rate (\$/Sq. Ft.)
Subject									
414 36 Ave SE	Manchester		1970	IW M	8,080	0.34	54.07	1,140,000	141.00
Comparables								Sale Price	
1341/1345 Hasting Cr. SE	Highfield	5/4/2011	1969	IW S	11,637	0.71	38.0	1,600,000	137.00
4207 17 St. SE	Alyth/Bonnybrook	4/7/2011	1963	IW M	14,858	0.60	57.0	1,485,000	99.00
4240 16 St. SE	Alyth/Bonnybrook	11/16/2010	1962	IW S	6,025	0.15	92.0	725,000	120.00
404-406 Manitou Rd. SE AND 5339 1A St. SW	Manchester	9/30/2010	1967	IW M	9,295	0.66	48.0	1,515,000	91.00

IW S – Industrial Warehouse 2 or less units

IW M – Industrial Warehouse 3 or more units

[8] The Complainant provided supporting documentation from RealNet for the four sales presented. (C1, Pg. 13-15, 19-22, 27-28) Other RealNet documents were submitted but not related to the requested assessment or the comparables used by the Complainant.

[9] The Complainant stated the requested assessment (shown below) was based on the rate of \$100.00 per square foot. The calculation is shown below:

Address	Community	Sold Date	YOC	Building Type	Building Area (SQ. FT.)	Land Size (Acres)	Site Coverage (%)	Suggested Assessed Value (\$)	Square Foot Rate (\$/Sq. Ft.)
414 36 Ave NE	Manchester		1970	IW M	8,080	0.34	54.07	808,000	100.00

[10] When questioned how the requested value of \$100.00 per square foot was determined from the comparables provided the Complainant stated it was the median value of the sale price per square foot of the comparables provided on C1, Pg.32.

Respondent's Evidence

[11] Out of a stated inventory of approximately 170 sales, the Respondent presented a 2012 Industrial Sales chart with five sales of properties comparable to the subject. (R1, Pg. 13) The Board reviewed the information below:

Address	NRZ	Sold Date	YOC	Building Type	Building Area (SQ. FT.)	Finish (%)	Land Size (Acres)	Site Coverage (%)	Assessed Value (\$)		Square Foot Rate (\$/Sq. Ft.)
Subject											
414 36 Ave SE	NM3		1970	IW S	8,080	10.0	0.34	54.07	1,143,603		141.53
Comparables									Sale Price (\$)	Time Adjusted Sale Price (\$)	TASP/ SQ. FT
3632 Burnsland Rd SE	NM3	29/07/2008	1955	IW S	3,948	35.0	0.16	57.80	880,000	716,691	181.53
3644 Manchester Rd SE	NM3	12/09/2008	1957	IW S	4,840	31.0	0.24	39.02	1,100,000	923,502	190.81
4033 14 St SE	BB1	01/12/2010	1980	IW S	6,476	22.0	0.22	64.43	1,050,000	1,025,485	158.35
1025 9 Ave SE	AT1	17/05/2011	1945	IW S	9,847	90.0	0.35	65.10	1,350,000	1,342,660	136.35
5539 6 St SE	SM6	26/01/2011	1959	IW S	10,225	14.0	0.59	43.56	2,000,000	1,960,416	191.73

IW S – Industrial Warehouse 2 or less units

IW M – Industrial Warehouse 3 or more units

[12] The Respondent submitted the comparables established a range of values based upon sale prices into which the subject properties rate per square foot falls at \$141.53.

[13] The Respondent submitted evidence the Complainant's sale at 5339 1A Street SW and 404-406 Manitou Road SE was a portfolio sale. (R1, Pg. 16-19) The Respondent stated the sale was for two separate properties and there was no evidence submitted to show the sale price for the individual properties. The Respondent stated all portfolio sales are excluded from the analysis conducted by the City of Calgary as the sale price cannot be distributed to the individual properties.

[14] The Respondent also submitted a challenge to the sale at 1341/1345 Hastings Crescent SE as the sale was not an arm-length transaction. (R1, Pg. 20-30) The Respondent submitted evidence there was person – Thomas Ma - who was identified as a director for both the vendor and the purchaser. The Respondent states the sale was excluded from the analysis of warehouses by the City of Calgary.

Findings of the Board

[15] The Board, after consideration of the evidence submitted by the Respondent, finds the challenges raised on two of the complainant's comparables to be supported. According the Board excludes the sale at 5339 1A Street SW and 404-406 Manitou Road SE as being a

portfolio sale and the sale at 1341/1345 Hastings Crescent SE for not being an arm-length transaction. The Board notes the Complainant submitted no evidence in rebuttal to the Respondent's challenges.

[16] The Board found the Complainant's explanation for the requested rate of \$100.00 to be without merit. Contrary to the complainant's statement the rate was a median value of the submitted comparables, the actual median calculates as \$109.50.

[17] The Board found the Respondent's comparable sales more compelling. Although they were in most cases older than the subject the resulting sale price per square foot supported the value placed on the subject.

Decision of the Board

[18] On review and consideration of all the evidence before it in this matter, the Board found the Complainant's evidence was not sufficient to convince the Board the subject assessment was in error.

[19] The Board confirms the assessment at \$1,140,000.00.

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



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 Single Tenant	Cost/Sales Approach	- Equity Comparables