

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***George Wayne Freeman (as represented by Assessment Advisory Group Inc),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, Earl K. Williams
Board Member, D Julien
Board Member, A Zindler***

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: 200557262

LOCATION ADDRESS: 1003 41 Ave NE

HEARING NUMBER: 67802

ASSESSMENT: \$922,500

This complaint was heard on 9 day of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- S. Cobb
- T. Youn
- D. Bowman
- G. Freeman – Owner of the Subject property

Appeared on behalf of the Respondent:

- J. Greer

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

[1] No Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[2] The subject property located at 1003 – 41 Ave NE is a 2,413 square foot (sq ft) warehouse/office built in 1993 on a .86 acre parcel of land with 6.5% site coverage, an Industrial-General (I-G) land use and located in Greenview Industrial Park. The property has an Industrial Property Use and Subproperty Use IN0606 Warehouse – With Internal Office Space. The subject property is assigned a traffic expressway/freeway influence and allocated an Influence amount of a negative 15%.

Issues:

[3] The assessed value does not consider influence adjustments for the location on a dead-end road which creates limited/restricted access to the subject property, the L shape of the property which influences development and usability of the land. Also there is a Public Access Easement and a Utility Right of Way registered on the title of the subject property. The total adjustment for the influences should be a negative 50% which has not been recognized in the assessment.

Complainant's Requested Value: \$411,250

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

[4] The Complainant and Respondent presented a wide range of relevant and less relevant evidence.

[5] The Complainant's evidence package included a Summary of Testimonial Evidence, the City of Calgary 2012 Property Assessment Notice, the Property Assessment Detail Report, a site plan, photographs of the subject property, a copy of an April 15, 1996 Public Access Easement agreement with the City of Calgary, a copy of the City of Calgary table titled "Site Specific Adjustment" which detailed the amount of adjustment for different type of influences

provided at the advanced consultation and copies of CARB decisions.

[6] The Respondent's evidence package included a Summary of Testimonial Evidence; the 2012 Assessment Explanation Supplement for the subject property, a map identifying the location of the subject property, photographs of the subject, a definition of Non-Residential Properties Influence Adjustments supported by photographs of examples of certain types of influences and a 2012 Industrial Sales Chart.

[7] Following a review of a site plan for the subject property, a review of the Public Access Easement Agreement on pages 9 through 18 of Exhibit C-1 and an extended discussion it was agreed that Schedule A to the Public Access Easement accurately identified on the subject property the location of a 37 foot wide Easement Area within which is located a 9 foot wide utility Right of Way.

Complainant

[8] In respect of the influence of the location on a dead-end road the Complainant reviewed the map on page 7 of Exhibit C-1 which shows that the subject property is located at the end of 41 Ave NE which limits access to the subject property.

[9] As support for the influence of limited/restricted access the Complainant directed the Board to Clause 31 of CARB 2116/2011-P which stated that:

The Board finds the limited access to the subject property as per a dead-end road warrants a -25% adjustment for "Limited Access/Uses....."

[10] Further Schedule A to the Public Access Easement Schedule (page 17 of Exhibit C-1) highlights the L shape of the property and the location of the Public Access Easement which the Complainant argues impacts on the access, utilization and development of the lands.

[11] The Complainant argued that the evidence shows that subject property is significantly influenced by shape and limited/restricted access which must be recognized with an influence adjustment of a negative 50%.

Respondent

[12] The Respondent reviewed the aerial photographs of the subject property on pages 7 and 15 of Exhibit R-1 which show that the property is located between 41 and 45 Ave NE both of which are dead-end roads. However there is a road that connects 41 and 45 Ave NE that provides access to the front of the subject property.

[13] As examples of properties with limited/restricted access the Respondent reviewed pages 18 to 24 of Exhibit R-1 which were aerial photographs and City of Calgary Property Assessment Summary Report for 3 comparables which have been provided with an adjustment for Limited/Restricted Access.

[14] The Respondent argued that the purpose of the limited access influence is to adjust for properties where development is impacted by difficulty of access. While the location on a dead-end road may require you drive in a certain direction to access or egress a property it does not limit access to a property.

[15] The Respondent argued that the evidence contained in Exhibit R-1 shows that the subject property is accessible and the land is being used utilized hence no adjustment for limited/restricted access need to be provided.

Board Findings

[16] Although a Public Access Easement has been registered on title since April 15,1996

[14] The Respondent presented a table titled 2012 Industrial Sales Chart (page 13 of Exhibit R-1) which compared the subject with 4 comparables classified as industrial warehouse with multiple units located in the Central Region. The following table compares the 4 comparable properties to the subject on a number of factors

Address	Building Type	Transaction Date	AYOC*	Land Size	Bldg Area (sq ft)	Site Coverage	TASP psf ****
Comparables							
911 48 Av SE	IW S*	2009-10-21	1968	.36 ac	2,341	12.29%	\$279.60
5329 1A St SW	IW S*	2009-09-29	1966	.29 ac	3,900	31.20%	\$227.06
929R 42 Av SE	IW M**	2010-08-31	1961	.52 ac	5,000	22.24%	\$211.76
1107 46 Av SE	IW S*	2009-08-26	1966	.79 ac	9,500	27.75%	\$220.37
Subject							
		Valuation Date					Ass. Rate psf*****
Building 1	IW S*	2011-07-01	1966	1.82ac	7,330	15.34%	\$206.44
Building 2	IW S*		1966		8,995	15.00%	\$200.68

*Industrial Warehouse 2 or less units

**Industrial Warehouse 3 or more units

*** Approximate Year of Construction

**** Time Adjusted Sale Price per square foot

***** Assessment Rate per square foot

The TASP for the sale comparables range \$211.76 to \$279.60 per square foot (psf) with a median of \$223.72 psf. The assessment for the subject property on a per square foot basis are \$206.44 and \$200.68 which is an average of \$203.56.

[15] In summary the Respondent argued that the subject property is properly classified as a warehouse-with office extension and when compared to the median TASP of \$233.72 for 4 comparable sales the assessment of \$203.26 is supported.

Board Findings

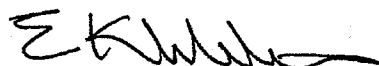
[16] In respect of the classification of the subject property the Respondent's comparison to properties classified as suburban office showed that suburban offices do not have a number of warehouse bay doors. Further the Complainant did not provide market evidence to support that the property is a suburban office.

[17] On the factors of location, building type, AYOC, building area, TASP and the average TASP of \$233.72 the Respondent's 4 sales comparables supported the assessment of \$203.36 psf. as a warehouse with office extension.

Board's Decision:

[18] Based on the evidence presented to the Board and the strength of the comparables the classification is confirmed as IN0209 Warehouse-With Office Extension and the assessment is confirmed at \$3,310,000.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF September 2012.



Earl K Williams

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*