

**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:

***Homburg (33) L.P. Management Inc.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Vercillo, PRESIDING OFFICER
K. Coolidge, MEMBER
P. Pask, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 091005603

LOCATION ADDRESS: 4124 9 ST SE

FILE NUMBER: 68566

ASSESSMENT: \$9,030,000

This complaint was heard on 17th day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *D. Chabot*

Appeared on behalf of the Respondent:

- *M. Lau*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject is a single storey, multi-tenanted suburban office/warehouse property located in the "Highfield" community, and within a Central Industrial zone of SE Calgary. According to the information provided the property contains one building that was constructed in 1961, with an assessed rentable area of 46,976 square feet (SF). The building is situated on a 120,050 SF site that is zoned Industrial - General.

[3] The subject is assessed using the Income Approach to value, using a market rental rate of \$14.00 per SF on 46,976 SF of office/warehouse space, an 1% vacancy rate, operating costs of \$12.00 and a 2.00% non-recoverable rate to calculate net operating income value. The net operating income is capitalized for assessment purposes using a 7.00% capitalization rate (cap rate).

Issues:

[4] There were a number of issues raised on the complaint form, however, for this hearing, the Complainant addressed the following issue:

- 1) The office/warehouse space assessed rental rate applied to the Income Approach to value should be reduced to \$13.00 per SF.

Complainant's Requested Value:

[5] \$8,380,000

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

ISSUE 1: The office/warehouse space assessed rental rate applied to the Income Approach to value should be reduced to \$13.00 per SF.

The Complainant provided a 83 page document entitled "Complainant's Written Argument" that was entered as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence or argument with respect to this issue:

[6] A Rent Roll – Lease Charges table of the subject dated December 31, 2011. The rent roll showed that the tenant occupying 18,120 SF of the building renewed their lease on January 1, 2010 at a rate of \$14.25 per SF. The only other tenant occupying the remaining 28,856 SF of the building renewed their lease on September 1, 2011 at a rate of \$12.00 per SF. The average of the two lease renewals was \$13.13 per SF, a weighted average of \$12.87 per SF and a median of \$13.13 per SF. The Complainant concluded from this analysis that the subject's leases were supportive of a reduction to the assessed rental rate to \$13.00 per SF.

[7] A copy of the Assessment Request for Information (ARFI) of the subject property dated March 13, 2009. The ARFI revealed that the tenant that renewed their lease on September 1, 2011 (see paragraph [6]) had been paying a lease rate of \$16.00 per SF prior to that renewal. The Complainant suggested that this lease renewal rate of September 1, 2011, although post-facto was evidence of a downward trend in the lease rates experienced by the subject.

[8] Two prior assessment complaint decisions from CARB 2395/2011-P and CARB 2397/2011-P were provided. Both decisions relied on post-facto evidence as the best indicators of market value, citing trends in the marketplace and reasonably dated to the July 1, 2010 assessment date.

The Respondent provided a 30 page document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence or argument with respect to this issue:

[9] A Rent Roll – Lease Charges table of the subject dated May 1, 2011. The rent roll showed that the tenant occupying 18,120 SF of the building renewed their lease on January 1, 2010 at a rate of \$14.25 per SF. The only other tenant occupying the remaining 28,856 SF of the building had a lease start date of September 1, 2001 at a rate of \$16.00 per SF. The Respondent concluded from this analysis that the subject's leases in place at the assessment date of July 1, 2011 were supportive of the assessed rental rate at \$14.00 per SF.

[10] A screenshot of City of Calgary data that showed the subject had completed renovations in both 2001 and 2008. In her Summary of Testimonial Evidence" the Complainant stated that the "renovations within the property ... intuitively affect the overall assessment or market value".

[11] An Income Approach assessment valuation of a comparable office/warehouse building at 141 50 AV SE showing the assessed rental rate applied to the 302,201 SF office/warehouse space was \$14.00 per SF.

[12] A table of eight equity comparable properties to the subject. Three of the comparables were in the NE while the rest were in the SE quadrant of Calgary. The comparables varied in size from 20,300 SF to 63,450 SF. All were assessed at a "market rental rate of \$14.00 per SF like the subject. The Respondent concluded that the subject is equitably assessed to other office warehouse properties.

The Complainant chose not to present her rebuttal document and therefore it was not entered into evidence.

The CARB finds the following with respect to this issue:

[13] That the lease renewal of the tenant occupying the 28,856 SF space dated September 1, 2011, although post-facto is significant in determining a market assessment rate.

[14] That the Respondent's reliance on the \$16.00 per SF lease rate of the Tenant occupying the 28,856 SF space prior to the September 1, 2011 lease renewal, is unreasonable support for the current assessment rate because it relies on a lease rate negotiated on September 1, 2001.

[15] That the CARB is not swayed by the Respondent's assertion that the renovations experienced by the subject in 2001 and 2008 have an intuitive affect on overall assessment or market value. There was no evidence provided as to the nature of those repairs or renovations.

[16] That the equity comparables used by the Respondent are not supported by enough information or evidence for the CARB to determine comparability to the subject. For example, there were no photos, lease rates or submarket information provided for the CARB to determine comparability.

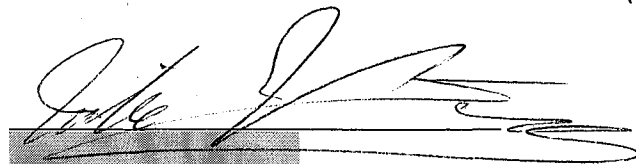
Board's Decision:

[17] The complaint is accepted and the assessment is revised to \$8,380,000.

The CARB provides the following reason for the decision:

[18] The post-facto lease renewal of September 1, 2011 at a rate of \$12.00 per SF was the only market evidence provided in this case. In the absence of any other market evidence, the CARB accepts this renewal as the best indicator of market value for the subject. Although it is post-facto evidence, it was reasonably close to the valuation date. When including the post-facto lease renewal, the resulting median lease rate of \$13.13 per SF of the subject is supportive of the requested \$13.00 per SF market assessment rate.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF AUGUST 2012.



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.*

(For MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Office/Warehouse	Low Rise/Multi-Tenant	Income Approach	Lease Rates