

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

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

between:

Safeway Holdings (Alberta) Ltd.
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Zacharopoulos, PRESIDING OFFICER
Y. Nesry, MEMBER
P. Charuk, MEMBER

[1] These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBERS: 032032807 (taxable) ; 201276607 (exempt)

LOCATION ADDRESS: 3501 23 ST NE

HEARING NUMBERS: 60795 (taxable) ; 60796 (exempt)

ASSESSMENTS: \$3,200,000 (taxable) ; \$414,000 (exempt)

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on June 23rd, 2011 at the office of the Assessment Review Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

[3] Appeared on behalf of the Complainant:

- *Mr. D. Sheridan* *Linnell Taylor Assessment Strategies*

[4] Appeared on behalf of the Respondent:

- *Mr. M. Berzins* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] No procedural or jurisdictional matters were raised.

PROPERTY DESCRIPTION:

[6] The subject property is identified as the Big Dog building, an improved property located at the intersection of 35th Avenue and 23rd Street NE, within the North Airways industrial area in NE Calgary. The record shows the building's year of construction is 1983 and the total assessed area is 30,800 square feet (sf), of which 3,524 sf is exempted as it is leased by the Missing Children Society of Canada. The assessment reflects a rate of \$117/sf.

REGARDING BREVITY:

[7] In the interests 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. In that the complaints before us involve one property with taxable and exempt portions under different roll numbers, and in that each party's submissions (between the taxable and exempt portion) are common, the Board will reference in its findings the property as a whole and will not segregate the submitted briefs.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount".

[9] The Complainant has raised the following issues for the Board's consideration:

1. **Is the Income Approach to value (IAV) the recommended valuation method for the subject property?**
2. **Does the Complainant's IAV calculation produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?**
3. **Does the Complainant's Direct Sales Comparison Approach (DSCA) to value**

analysis produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

4. Does the Complainant's equity analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?

COMPLAINANT'S REQUESTED VALUE:

[10] \$2,656,000 (taxable) ; \$344,000 (exempt)

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] Along with the evidence the parties presented at the hearing the Board referenced the Municipal Government Act (MGA) and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010. The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment is incorrect and if the market value determination as of July 1, 2010 should be revised.

[13] With regard to the individual issues identified above the Board's findings are as follows:

1. **Is the Income Approach to value (IAV) the recommended valuation method for the subject property?**

[14] The valuation standard applicable to the subject property is found under MRAT Sec. 6; that being market value. The MGA and associated Regulations do not identify specific valuation method(s) to be utilized in the determination of market value for the subject property. The *Alberta Municipal Affairs Detailed Assessment Audit Manual* (AMADAAM) excerpt presented by the Complainant (Doc. C-1, Exh A-8) is not limiting as it indicates the "recommended approach" for the valuation of warehouses is "income approach or sales approach or cost approach".

[15] In conclusion, the Board finds the MGA and associated Regulations do not set out valuation approaches for the subject property, and the AMADAAM offers multiple options for warehouse properties. The Board is therefore prepared to consider evidence pertaining to the determination of the market value of the subject property as of July 1, 2010 with no prejudice for any valuation method employed by the parties.

2. **Does the Complainant's IAV calculation produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?**

[16] The Complainant has provided a valuation as per the IAV based on inputs progressed through the attached analysis (starting Doc. C-1, pg 5). The Complainant's IAV calculation (Doc. C-1, pg 12) shows the following inputs:

- Rent: 25,163 sf @ \$7.50/sf ; 5,636 sf @ \$6.00/sf (mezzanine)
- Vacancy: 3%
- Shortfall: \$3.00/sf
- Capitalization rate (cap rate): 7.5%

[17] The Complainant's cap rate analysis is found under Doc. C-1, pg 9 and includes 6 sales transactions, suggesting that indicators #4 and #6 should be given limited weight. The Board finds the Complainant's analysis in whole is based on properties offering substantial variances in size (from 11,100 sf to 411,560 sf) and location (from Great Plains in SE Calgary to Westwinds in NE Calgary). The Complainant relies on a "fairly narrow band" of reported cap rates, notwithstanding the varying property characteristics.

[18] In light of the aforementioned variable characteristics the Board cannot conclude that the Complainant's market indicators operate under the same market or financial conditions as the subject property. Therefore, the Board finds they are not established as appropriate references for the purpose of providing a proper cap rate indicator for the subject property.

[19] Consequently, the Board finds the Complainant's IAV calculation does not produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

3. Does the Complainant's DSCA analysis produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

[20] The Complainant has provided 5 market transactions in support of a revised assessed value (see Doc. C-1, pg 13). The following features are considered within his analysis: time; location; building size; clear wall height; tenancy type; age, and finished area.

[21] The Board finds the Complainant equally references all 5 transactions and arrives at a weighted mean sale price of \$103/sf (rounded). As per the Complainant, a series of subjective adjustments are made to address the dissimilarities between these properties and the subject. The result is an adjusted sales price of \$102/sf (rounded). The Board found no market data to support the Complainant's subjective adjustments.

[22] In response, the Respondent provided 3 market transactions (Doc. R-1, pg 21). With regard to the other features identified by the Respondent (parcel size; site coverage; number of buildings; year of construction; tenancy type; net rentable area; finish %, and time adjusted sale price), no details are forthcoming regarding any adjustments made within the valuation process to address dissimilarities between these properties and the subject.

[23] The Board finds the sale at 3640 11A Street NE has been referenced by both parties. The Board finds this sale includes "excess land" determination and a "charitable donation" payment as reported by third party analysis (Doc. C-2, Apx F, pg 12); complexities the Board finds to be outside "typical" real estate transactions. The Board finds these have not been effectively addressed by the parties as to convince the Board of their conclusions, so no weight is given to this indicator.

[24] The Board finds the Complainant has provided one other sale within the same community as the subject, that being 3651 23rd Street NE. The Respondent has provided the Assessment Request for Information document to show this was not deemed an arm's length transaction (see Doc. R-1, pg 25).

[25] The Board is not persuaded to accept the Complainant's remaining market indicators due to variances in location and property characteristics which have not been addressed through market supported adjustments as to qualify these transactions as appropriate references for the subject.

[26] In conclusion, the Board finds the Complainant's DSCA analysis does not produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

4. Does the Complainant's equity analysis produce an appropriate assessment indicator for the subject property as of July 1, 2010?

[27] The Complainant focused his equity argument on 3 purported comparable properties shown under Doc. C-1, pg 16. The Respondent addresses the characteristics of these properties under Doc. R-1, pg 23. In turn, the Respondent has provided under Doc. R-1, pg 20 a list of 4 purported comparables in support of the subject assessment.

[28] In summary, the Board finds the Complainant's references are shown by the Respondent to vary from the subject through characteristics such as location (Complainant's #3), size (Complainant's #2), finished area (Complainant's #2), site coverage (all 3 of the Complainant's references, etc.

[29] In light of the aforementioned variances the Board finds the Complainant's equity analysis does not produce an appropriate assessment indicator for the subject property as of July 1, 2010.

BOARD'S DECISION:

[30] The assessments are confirmed as follows:

- **ROLL NUMBER 032032807 (taxable) at \$3,200,000**
- **ROLL NUMBER 201276607 (exempt) at \$414,000**

DATED AT THE CITY OF CALGARY THIS 26 DAY OF July 2011.


I. Zacharopoulos
Presiding Officer

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

NO.	ITEM
1. Doc. C-1	Complainant's Disclosure (pt 1)
2. Doc. C-2	Complainant's Disclosure (pt 2)
3. Doc. C-3	Complainant's Rebuttal
4. Doc. R-1	Respondent's 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.*