

**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:

1415 Realty LTD. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Tom Golden, PRESIDING OFFICER
B Jerchel, MEMBER
J Lam, MEMBER***

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:	201583689 and 201583572
LOCATION ADDRESS:	1245 28 ST NE and 1415 28 ST NE
FILE NUMBER:	65816 and 65827
ASSESSMENT:	\$2,260,000.00 and \$4,900,000.00

This complaint was heard on 30 day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *M. Uhryn*

Appeared on behalf of the Respondent:

- *K Gardiner*
L Cheng

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

[1] These two properties have historically been used in conjunction with each other and have transacted together. They will be considered at the same time and in the same decision.

Property Description:

[2] The subject is two titles all industrial property. The first area of 4.43 acres is used for warehouse purposes and the second is a vacant site of 2.8 acres. The warehouse building is a multi tenanted structure of 33,804 square feet (sq ft) constructed in 1970. The vacant parcel is traversed by a rail right of way. A sales comparison approach was used to derive the assessment of \$103.00 per sq ft.

Issues:

[3] Is the assessment on the subject property the appropriate assessment?

Complainant's Requested Value:

\$1,921,000.00 for 1245 28 ST NE and for \$4,165,000.00 for 1415 28 ST NE.

Board's Decision in Respect Assessed Value:

[4] The Complainant wished to have the property assessment on the subject lands reduced for three reasons. First, and most importantly the properties sold within the valuation period for a total of \$6,125,000.00. This is 15% less that the assessed rate for the combined properties. The sale was arms length and is the best representation of the market value of the land.

[5] Secondly with respect to 1245 28 ST NE, the vacant land, the Complainant asked for an adjustment for the shape of the parcel, as the land is bisected by a rail right of way restricting the development potential of the land. Based on a chart entitled 2011 Beltline influence Chart the Complainant suggested the reduction should be 30%, 15% for restricted access and 15% for shape reduced functionality.

[6] Finally the sale price seems to have included chattels with a value of \$100,000.00 in the form of trailers. The Complainant wished those items to be deducted from the total sale price.

[7] The Respondent discussed the data used to develop the assessment for the subject, including 5 sales of similar property. The assessment was further supported by a series of equity comparables. The respondent suggested that the fact that a sale of the subject property occurred was no reason to vary the assessment. The subject's sale is only one property and may not represent the market. The assessment was based on over 140 sales. In the opinion of the Respondent, even the Provincial guidelines reproduced in exhibit R-1 pg 35 suggest the sale of a subject may not equal market value.

[8] With respect to the access restriction and shape adjustments requested by the Complainant it was stated that the adjustment chart used was for a different area of the City and these adjustments did not apply to industrial properties.

[9] The Board determined that the 30% adjustment requested for restricted access and parcel shape was based on a different area of the City and likely developed to reflect specific issues in that area. This request was unsubstantiated and had little application in the industrial areas. This shape and access argument was insufficient to change the assessment.

[10] With respect to the chattels the Board did not have sufficient information to determine actual value of the trailers or if they would all be removed. It was not clear that the structures were not office space and purchased as part of the improvements. No variations to the assessment were made because of this argument.

[11] The sale of the subject property was given serious consideration and the Board agrees with the Complainant that the sale of the subject land is the best indicator of market value. No party objected to the sale as being non arms length or any other issue that would question the validity of the sale. The Board accepts the sale as occurring within a reasonable period before the valuation date and the sale is a transaction between a willing buyer and a willing seller. The assessment should be adjusted to reflect the sale. Because two properties were purchased the Board feels it is reasonable to reduce each property by the 15% difference between the current assessment and the sale price as shown in exhibit C-1 pg 46.

Board's Decision:

[12] The assessment is set at \$1,921,000.00 for 1245 28 ST NE and for \$4,165,000.00 for 1415 28 ST NE

DATED AT THE CITY OF CALGARY THIS 17th DAY OF Aug 2012.



Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C-2	Complainant Rebuttal
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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
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CARB	warehouse	Multi tenant	Sales Approach	Sale of property
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