

**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:

***515476 Alberta Ltd. (as represented by Assessment Advisory Group),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
D. Julien, MEMBER
P. Pask, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	054000401
LOCATION ADDRESS:	512 Moraine RD NE
HEARING NUMBER:	63548
ASSESSMENT:	\$3,100,000

This complaint was heard on the 6th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- Mr. T. Howell, Assessment Advisory Group

Appeared on behalf of the Respondent:

- Mr. M. Berzins, Assessor, City of Calgary

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

None

Property Description:

The subject is a 2004 (year of construction – YOC) vintage multi-bay industrial warehouse with a 19,500 square foot (SF) building footprint but having an assessable area of 21,258 SF. It has 40.53 % site coverage with 26% office finish on a 1.10 acre site in Meridian industrial park. The subject is assessed at \$3,100,000 based on \$146 per SF.

Issues:

1. The assessment is incorrect based on comparable property sales and is therefore inequitable.

Complainant's Requested Value: \$2,550,000 based on \$120 per SF

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

Issue # 1 "The assessment is incorrect based on comparable property sales and is therefore inequitable"

The Complainant provided his Brief C-1 and outlined the assessable characteristics of the subject via the City's "Assessment Summary Report". He also located the subject in the city and Meridian industrial park by using maps and exterior photos of the subject.

The Complainant referenced via an Alberta Data Search (ADS) document, two market sales of industrial properties he considered to be comparable in several ways to the subject. The Complainant referenced the following:

Comparable	Address	Sale Price	Breakdown Per SF	Lot Size	Zoning	Building Area	Sale Date
# 1	2610 – 3 AV NE	\$2,450,000	\$108.68	1.10 Ac.	I-G	22,544 SF	10/15/09
# 2	2801A – 18 ST NE	\$2,000,000	\$109.06	1.33 Ac	I-G	18,339 SF	4/9/2010

The Complainant provided the RealNet market sales/information sheets, and the City's Assessment Summary Reports" for his two comparables above-noted. He provided a Google map to identify the locations of the two comparables, relative to the subject.

On page 19 of his Brief C-1 the Complainant referenced his "AAG Valuation Methodology", by very briefly quoting from selected documents from each of the "Alberta Assessors Association" and the Appraisal Institute of Canada". The point of this submission and related argument was that it requires experience and judgement on the part of an Appraiser, to make the appropriate "adjustments" when comparing comparable properties. It is insufficient to merely use mathematical calculations. The Complainant noted the following:

"Alberta Assessors Association
 'Market Value and Mass Appraisal for Property Assessment in Alberta'
 June 1998
 Valuation Guide Introduction Pg. 8 Section – Market Comparison Approach.

The differing attributes of the comparables sales may require significant adjustments in order to form point-of-comparison and the basis of valuation for the subject. If sales data is limited, it also becomes difficult to establish appropriate benchmarks to estimate values for similar properties."

"Appraisal Institute of Canada
 'Basics of Real Estate Appraising' 1994
 Chapter 11 – The Direct Comparison Approach (VI) Types of Adjustments
 Pg. 241

Rigid mathematical calculations should not dictate the amount of the adjustment. It is the appraiser's experience and judgement that is important, as appraisal is an art rather than a decision based on mathematical calculations. Appraisal is often referred to as an art because judgement is used in the final estimate of value. This should not diminish the importance of using mathematics to assist in the value judgement.

Percentage Adjustments

Adjustments are often expressed in percentages for differences between the subject and the comparables. Percentage adjustments are often used to show any changes in market conditions and location"

The Complainant referenced Calgary CARB Decisions 2077/2010-P; 2093/2010-P; and 2103/2010-P; and 2086/2010-P. He argued that one of the Board members in each of the 4 hearings referenced is an Accredited Appraiser, and accordingly, because the Complainant was successful in securing a reduction in those 4 complaints, arguably on the basis of his adjustments, he considered his adjustment process was sound.

The Complainant clarified that he is not an accredited Appraiser, nor were the adjustments to his comparables made by an accredited Appraiser. Nevertheless, he argued that as a result of his analysis of his two comparables above-noted, he felt qualified to make a 5% upward adjustment to the value of his comparables – compared to the subject, based on age.

The Complainant noted that based on his research, he considered that each successive 10 year difference in age between two properties warranted a 5% upward adjustment for an older comparable compared to the subject. Thus, a 20 year difference in age between two properties would warrant a 10% upward adjustment to the older property. He also confirmed that if a property was 11 or 12 years older than another, it would also warrant the additional 5% (i.e. total 10%) adjustment, notwithstanding the full 10 years had not elapsed.

The Complainant offered a “Year of Construction Study” on pages 36 and 37 of his Brief C-1. Basically he provided two Alberta Data Search (ADS) sheets detailing the multiple (X 2) sale of a 2006 (YOC) industrial property at 130 – 3770 Westwinds DR NE in the Saddle Ridge/Stoney industrial park. He suggested the results of his analysis of this “paired sale” of one property support his 5% age-related adjustment.

The Complainant also provided on pages 38 and 39 of Brief C-1, a sales history of a 1978 (YOC) Condominium industrial property at 3A- 624 Beaver Dam RD NE which, since 2004, had sold six times. He considered age to be an important factor in these sales, and therefore it supported his conclusions regarding 5% age-related adjustments. He noted that as a company, “we don’t make adjustments for level of office finish.” He also confirmed that adjustments are based on “judgement calls” by his firm.

The Complainant argued that there are “many variables in each building that could be adjusted”, but nevertheless, in this instance, he chose to only adjust for age on comparable #2, and for age and site coverage on comparable #1. The net result was that an upward 15% adjustment for age only on comparable #2 produced a value of \$125 per SF, whereas on comparable #1 a negative 10% adjustment for site coverage, and an upward 10% adjustment for age, resulted in no adjustment and a value of \$114 per SF. The Complainant then averaged the two values to request a value of \$120 per SF and a reduced assessment of \$2,550,000 for the subject.

The Respondent questioned the Complainant’s methodology and rationale for concluding that properties should be adjusted for age at a rate of 5% for each ten year period. He questioned how, on the basis of a very limited number of sales, the Complainant could make that conclusion.

The Respondent noted that one of the Complainant’s two comparables has twice the office finish than the other and there did not appear to have been an adjustment for that factor. He also noted that compared to the subject, the ages of the Complainant’s two comparables, are over 34 years and 24 years older respectively. He questioned why the Complainant would not have selected newer buildings closer in age to the subject’s 2004 YOC so that such major adjustments are not required. He concluded that the Complainant’s 2 market comparables are very old, and when this is considered in relation to their individual characteristics, they are not comparable to the subject.

The Respondent argued that the City considers it critical under accepted assessment methodologies and practice, to examine many characteristics of properties being compared in

order to achieve the best and most accurate comparative match possible. Therefore he concluded that compared to the City, the Complainant's method of comparison is significantly flawed, leading to flawed conclusions of relative value.

The Respondent referenced his five market sales in a matrix on page 17 of his Brief R-1. He argued that his comparable market sales contained newer improvements, and were closer in age to the subject which has a 2004 building. The Respondent advised that these 5 sales were a selected sample from the City's database of 156 valid market sales. He clarified that they were selected and compared to the subject based on closely matching site characteristics such as age (YOC); site coverage; number of buildings, size; and level of office finish, etc. among others. Therefore, he argued, there is no need to make major adjustments to them.

The Respondent argued that according to accepted practice, the only time a qualified Appraiser makes subjective adjustments is when there is a lack of sales. He argued that this is not the case in Calgary, and certainly not in the NE quadrant of the city where the subject is located.

The Respondent introduced Calgary Assessment Review Board Decision ARB 0530/2010-P in which the Complainant had presented evidence based on a methodology similar to that presented today. He noted that the Board in that Decision had rejected his methodology and the conclusions drawn from it. In that Decision, the Board found the adjustments to be "arbitrary" while noting that :

"The adjustments applied were substantial and not supported by evidence."

Complainant's Rebuttal

In rebuttal, the Complainant argued that the City had referenced but not introduced its list of 156 sales. Therefore he argued, the conclusions the City had apparently drawn from its analysis of these sales could not be examined by either the Board or Complainant and thus should not be relied upon.

Board's Analysis and Decision With Reasons

The Board accepts the Respondent's argument that attempting to compare two older properties some 34 and 40 years of age, to a newer 2004 property is fraught with challenges, even for seasoned qualified professionals when certain adjustments based on "judgement" are required. The Complainant highlighted and made much of the requirements of various Canadian appraisal bodies who guide professional appraisers in making adjustments when comparing properties. However, the Complainant clarified that he is not a qualified appraiser, nor has a qualified appraiser produced or examined the adjustments he has made to either of his comparable properties. He continually assured the Board that these adjustments were either made by him or his company as the result of personal "judgement".

In addition, the Complainant produced adjustments to his two comparable properties based on his personal knowledge, which it appears in this instance, is based on three sales involving two properties. His conclusion therefore that an age adjustment of 5% per decade (or additional part thereof) is appropriate, appears to be highly speculative, vastly unsupported, and therefore significantly flawed. Consequently the Board is reluctant to embrace the methodology, and the

conclusions the Complainant has drawn from it. The Board therefore appears to share the views regarding this point, as expressed in ARB 0530/2010-P as presented by the Respondent.

The Respondent provided five comparable properties selected from an apparent list of 156 city-wide sales. They were selected based on four key characteristics to minimize the need for adjustments – i.e. size; site coverage; year of construction; and geographic region. The Respondent asserted that these sales were not adjusted, and did not need adjusting because of the methodology the City used. The five comparables not only appear to have individual characteristics closely matching those of the subject, but the sales prices range from \$132 per SF to \$188 per SF and appear to support the assessment of \$146 per SF. On the whole therefore, the Board finds the Respondent's methodology to be appropriate and supportable, and the conclusions drawn therefrom to be credible.

And finally, the Board seeks to make it clear that during the course of hearings, and contrary to the suggestion of the Complainant, individual Board members do not act in any "professional" capacity whatsoever. Board members must at all times be neutral individuals, gathering and weighing evidence to arrive at informed decisions. To suggest that a Board member may be acting in any other capacity – such as an Appraiser, would appear to signify a lack of understanding of the process.

Therefore, in summary and on balance, the Board considers that the Complainant has provided insufficient information to persuade the Board that the assessment is incorrect and inequitable. Thus the Board finds for the Respondent in this appeal.

Board's Decision:

The assessment is Confirmed at \$3,100,000.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF July 2011.


K. D. Kelly
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C-1	Complainant Disclosure Brief
2. R-1	Respondent Disclosure Brief

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.*