

**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:

***BJ Services Company Canada (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:	054008206
LOCATION ADDRESS:	2711 – 5 AV NE
HEARING NUMBER:	63682
ASSESSMENT:	\$1,730,000

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 Review in Respect of Procedural or Jurisdictional Matters:

None

Property Description:

The subject is a 1969 (year of construction – YOC) vintage single-tenant industrial warehouse with 10,184 square feet (SF) of assessable area. It has 23.65 % site coverage with 11% office finish on a .99 acre (AC) site – including .21 AC of "Extra Land", in Meridian industrial park. The subject is assessed at \$1,730,000 based on \$170 per SF.

Issues:

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

Complainant's Requested Value: \$1,560,000 based on \$153 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, three 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	3536 – 27 ST NE	\$2,000,000	\$93.52	1.08 Ac.	I-G	21,386 SF	10/01/10
# 2	2610 – 3 AV NE	\$2,450,000	\$108.68	1.10 Ac	I-G	22,544 SF	10/15/09
#3	2510 – 27 ST NE	\$1,825,000	\$195.19	1.98 Ac	I-G	9,350 SF	04/23/08

The Complainant provided the RealNet market sales/information sheets, and the City's "Assessment Summary Reports" for his three comparables above-noted. He provided a Google map to identify the locations of the three properties relative to the subject. He cautioned that property #1 at 3536-27 ST NE was a "non-arms length sale" and not a lot of weight should be accorded it, but urged the Board to compare its assessment (\$2,310,000) against the purchase price.

On page 15 of his Brief C-1 the Complainant provided a matrix which he called an "Improvement Value Calculator". He determined that in certain assessment calculations (undisclosed by the Complainant) that the City had used \$21.24 per SF for the land-only portion of the calculations. He applied this value to the land attributed to each of the subject, and, his three market comparables.

Thereupon he subtracted his derived value of the land from the assessed value of his three comparables to identify a value per SF for each improvement on each of the subject, and his three comparables. He concluded that the improvement on the subject should be valued at \$80 per SF; comparable #1 at \$61 per SF; comp. #2 at \$49 per SF; and comp. #3 at \$83 per SF. He concluded that an average of \$63 per SF would therefore be appropriate for the subject instead of his inferred \$80 per SF.

Subsequently the Complainant concluded that the land value of the subject should be \$914,531 based on \$21.24 per SF, and, the improvement value should be \$641,592 based on \$63 per SF, thereby resulting in a requested reduced assessment value of \$1,556,123 or \$1,560,000 (rounded).

The Complainant noted that based on an independent study carried out by his firm, he considered that each successive 7 year difference in age between two properties warranted a 5% upward adjustment for an older comparable property compared to the subject. In support of his position, the Complainant provided on page 16 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.

Thus, a 14 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 8 or 9 years older than another, it would also warrant the additional 5% (i.e. total 10%) adjustment, notwithstanding the full 7 additional years had not elapsed.

The Respondent noted however that in a previous hearing, based on the same Beaver Dam property, the adjustment value for age was calculated to be 5% for every 10 years of age

difference and he questioned without apparent success, as to why there was this discrepancy? The Complainant however confirmed that comparative property adjustments are based on "judgement calls" by his firm and this was one of them. Moreover, he concluded that his analysis has led him to believe that the subject is over-assessed and the assessment is inequitable

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

The Respondent noted that one of the Complainant's three comparables was identified as a non-arms length sale, and the other two were described as not comparable to the subject or each other. He also noted that the ages of two of the Complainant's comparables, were much newer than the 1969 age of the subject. He questioned why the Complainant would not have selected comparable buildings closer in age to the subject so that such major adjustments are not required. He concluded that the Complainant's three market comparables 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. He also questioned the Complainant's "Improvement Value Calculator" methodology as being simplistic and unsupported according to accepted appraisal practice. He argued that the City's assessments on the selected properties were being altered and used inappropriately. Therefore he concluded that the Complainant's method of valuation and comparison is significantly flawed, leading to flawed conclusions of relative value.

The Respondent referenced his six market sales in a matrix on page 16 of his Brief R-1. He argued that his comparable market sales were closer in age to the subject which has a 1969 building. The Respondent advised that these 6 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 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 an older 1969 property to newer 1980 and 2003 properties is fraught with challenges, even for seasoned qualified professionals when certain adjustments based on "judgement" are required. However, the Complainant clarified that he is not a qualified appraiser, nor has a qualified appraiser produced or examined the adjustments he suggests – i.e. 5% for every 7 years (or additional part thereof). He assured the Board that these adjustments were either made by him or his company as the result of personal "judgement".

His conclusion therefore that a 5% age adjustment is appropriate, appears to be highly speculative, vastly unsupported, and therefore significantly flawed. So too is the Complainant's analysis and his conclusions of value based on his "Improvement Value Calculator". Consequently the Board is reluctant to embrace the methodology, and the conclusions the Complainant has drawn from these processes. 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 six 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 six comparables not only appear to have individual characteristics closely matching those of the subject, but the sales prices range from \$160 per SF to \$377 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.

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 \$1,730,000.

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.*