

**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:

ARPI'S INDUSTRIES CANADA INC. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***R. Glenn, PRESIDING OFFICER
B. Jerchel, MEMBER
B.Kodak, 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:	116027806
LOCATION ADDRESS:	3916 70 Ave SE
HEARING NUMBER:	63623
ASSESSMENT:	\$ 5,570,000

This complaint was heard on the 6th day of July, 2011 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 1.

Appeared on behalf of the Complainant: John Smiley (Agent)

Appeared on behalf of the Respondent: Ian Baigent (Assessor)

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

No issues of procedure or jurisdiction were raised.

Property Description:

The subject is an industrial warehouse located in Foothills Industrial Park in south east Calgary, comprising a site of 3.59 acres, with a rentable building area of 56, 176 SF, and a finished area of 28%, built in 1980.

Issues:

Whether the subject building is properly assessed in light of queries regarding:

1. the sale price of the subject in 2008,
2. whether the sale was an arm's length transaction,
3. the Respondent's subsequent reliance on the 2008 sale information for their 2010 time adjusted sale value of the subject

Complainant's Requested Value:

\$ 4,820,000

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

The Complainant argued that the subject property was sold in December 2008 in an arm's length transaction for \$5,000,000. They also say the Respondent had indicated in 2010 that it believed the time adjusted value of the subject was \$4,820,000. The Complainant also put forward a 2010 ARB decision which reduced the assessment to the original sale price.

The Complainant went on to argue that there is no better indicator of value than an arm's length market transaction between a willing seller and a willing buyer. They also provided a City document entitled "Preliminary Industrial Sales 2011", which showed a time adjusted sale price for the subject property at \$4,820,815.

The Complainant also provided a 2005 Court of Queens Bench decision which confirmed that one sale can be the best means of determining the value of a property.

The Respondent argued that recent similar property sales provided would support the assessed value of \$99/SF, or, the current assessed value. They also say there is more than enough sales evidence to support utilizing the Direct Sales Approach to value.

The Respondent goes on to say that the "Appellant has only provided the 2008 sale of the subject as evidence to support a reduction, choosing to ignore the legislation requiring that mass appraisal must be employed to derive assessed values. One sale is not an indicator of market value".

Further, the Respondent provides Assessment Equity data to demonstrate an equitable distribution of Market Value as determined through mass appraisal as legislated. They go on to argue that the Complainant has not met the required onus to show that the assessment is incorrect.

The Board found that the Respondent did provide some good industrial equity comparables, but they also relied on the subject as one of their Industrial Sales Comparables, showing a time adjusted sale price of \$86/SF, or about \$4,865,020. This did not assist the Respondents.

The Respondents also argued that in the sale in issue, the Vendor and the Buyer were not arm's length. The Vendor is a manufacturer of heating and air conditioning equipment. The Buyer is a heating and air conditioning service company. The Respondent did not demonstrate that there was a real connection between the two parties, other than to suggest it by innuendo.

The Respondent also pointed to the fact that for six months prior to the subject sale, the asking price for the subject was \$8,650,000. They suggest that this substantial drop in the price is evidence of a non-arms length relationship, but once again, their argument did not take that innuendo further.

The Board found that the reliance of the Respondent on the time adjusted sale price in 2010 and draft 2011 documents was a substantial indicator of their opinion of the real value of the subject, and their argument on mass appraisal was simply not convincing to the Board.

Based on all of the foregoing, the Board finds that the Complainant has met the requisite onus, and therefore, the Complainant has shown that their concern over the assessment is valid. Accordingly, the assessment is herewith reduced to \$4,820,000.

Board's Decision:

The subject assessment is reduced to \$4,820,000.

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


Richard Glenn
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainants Rebuttal

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.*