

**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:

Dundee Flex Properties Inc., COMPLAINANT (as represented by Colliers International)

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER

B. Jerchal, MEMBER

D. Steele, 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:	049015001
LOCATION ADDRESS:	2150 – 29 ST NE
HEARING NUMBER:	61357
ASSESSMENT:	\$7,110,000

This complaint was heard on 11th 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:

- *M. Uhryn, Agent, Colliers International*

Appeared on behalf of the Respondent:

- *K. Cody, Assessor, City of Calgary*

Procedural Comment:

The board is an unbiased panel tasked with adjudicating the matter before us. During the hearing each party was asked the following questions;

1. *Is the information regarding the roll correct?*
2. *Is there an objection to the makeup of this panel?*
3. *Is there an objection to any party or their status before the board?*
4. *Are there any preliminary matters to be dealt with?*
5. *Was evidence disclosed as per the Municipal Government Act (MGA)?*
6. *Have the parties taken the opportunity to visit the subject site in their capacity before the board?*
7. *Did the board give you the opportunity to present all your evidence?*
8. *Did you get a fair hearing?*

It is the board's desire to not only provide a fair hearing but also to have you feel that you had a fair hearing, in exchange the board expects professional, courteous conduct and truthful information.

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

No objections on procedure or jurisdiction matters were raised.

Property Description:

The subject property is an Industrial-General (I-G) land use property with Industrial Warehouse Multiple Tenant (IW M) building type located in the Sunridge Industrial area. The subject site has an area of 3.32 acres providing site coverage of 41.13% with one building on site occupying a footprint and an assessable building area of 59,554 square feet built in 1998 with an office finish of 37%. The current assessment is \$7,110,000 or \$119 per square foot.

Issues:

The Complainant identified one issue on the complaint form:

1. **The assessment amount is incorrect**
 - a. Issues:

- i. Characteristics and Physical Condition
 - ii. Valuation Procedures
 - iii. Valuation Standard
 - iv. Fairness and Equity
 - v. Quality Standards
- b. Grounds:
- i. The assessment amount is not reflective of the correct application of the Assessment Range of Key Factors, Components, and Variables – 2011 Industrial.
 - ii. The valuation model is not reflective of the correct representation of the relationship between the subject property's characteristics and their value in the real estate marketplace.
 - iii. The assessment amount is not reflective of the Highest and Best Use of subject property.
 - iv. The assessment amount is not reflective of the correct application of the Income Approach to Value.
 - v. The assessment amount is not reflective of the correct application of the Comparison Approach to Value as a primary or secondary approach to value.
 - vi. The assessment amount is not reflective of the correct application of the Cost Approach to Value as a primary or secondary approach to value.
 - vii. Specifically, the assessment amount does not properly consider the atypical specific location within the general area (Sunridge), age (1998), quality (B+), condition, site coverage and configuration, total building size (59,554 SF), and income generating ability.
 - viii. The result of the foregoing is an assessment amount for the subject property that is neither fair nor equitable relative to the assessment of similar properties in the same jurisdiction.

Complainant's Requested Value: \$5,650,000 (complaint form)
\$5,950,000 (disclosure and hearing)

Summary of Complainant Evidence:

The board granted the Complainant's request therefore; evidence, questions and answers provided under the hearing for Roll Number 049015100, Decision Number CARB 1346/2011-P is entered into evidence. The Complainant provided one document which was accepted into evidence as Document C2. This document was organized and easy to follow. The presentation from the Complainant started with a copy of the Assessment Review Board Complaint form (pages 2 through 6), Assessment Complaints Agent Authorization form (page 7), 2011 Property Assessment Notice (page 8), summary of testimonial evidence (pages 9 through 11), assessment history (page 12), property data (page 13), 2011 Assessment Explanation Supplement (page 14), photographs (pages 15 through 20), sales comparables (page 21), aerial map (page 22), and supporting documents (pages 23 through 73). The Complainant then summarized and requested a 16% reduction to their assessment or \$100 per square foot with a truncated value of \$5,950,000.

Summary of Respondent Evidence:

The board granted the Respondent's request therefore; evidence, questions and answers provided under the hearing for Roll Number 049015100, Decision Number CARB 1346/2011-P is entered into evidence. Respondent provided an organized document which was accepted into evidence as Document R2. The Respondent reviewed information regarding legislative authority for property assessment (pages 3 and 4), principals of fairness and equity in mass appraisal (pages 5 and 6), property valuation methodology (page 7), the burden of proof or onus of the parties principals (pages 8 and 9), and summary of testimonial evidence (page 10). Respondent further reviewed aerial maps (pages 11, 12 and 15), subject photographs (pages 13 and 14), and the subject's 2011 Assessment Explanation Supplement (AES) (page 16). The Respondent continued with equity comparables (page 17), sales comparables (page 18), and a hypothetical Income Approach (page 19). Attached to the document was supporting pages for argument heard. The Respondent then provided a conclusion to support their requested assessment at \$7,110,000 or \$119 per square foot.

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

1. **The assessment amount is incorrect**
2. The board reviewed carefully all the information provided by all parties on the property before us including the comparables provided by the Complainant and the Respondent. The board finds that the Complainant failed to provide compelling evidence that the assessment was incorrect therefore the '*burden of proof*' test has failed.
 - a. Issues:
 - i. Characteristics and Physical Condition; assessment accurately reflects the characteristics and physical condition of the subject on December 31, 2010 as per Municipal Government Act (MGA) 289(2),
 - ii. Valuation Procedures; assessment correctly deployed the fee simple, mass appraisal valuation procedure for the subject as set out in Municipal Government Act (MGA) Matters Relating to Assessment and Taxation (MRAT), Alberta Regulation 220/2004 2,
 - iii. Valuation Standard; assessment accurately reflects market value as per Municipal Government Act (MGA) Matters Relating to Assessment and Taxation (MRAT), Alberta Regulation 220/2004 4(1), and 5(1),
 - iv. Fairness and Equity; the board finds this assessment to be fair and equitable as per Municipal Government Act (MGA) 293,
 - v. Quality Standards; the board finds that the quality standards have been met as per Municipal Government Act (MGA) Matters Relating to Assessment and Taxation (MRAT), Alberta Regulation 220/2004 10.
 - b. Grounds:
 - i. The board finds the assessment is reflective of the correct application of the Assessment Range of Key Factors, Components, and Variables – 2011 Industrial,
 - ii. The board finds the valuation model is reflective of the correct representation of the relationship between the subject property's characteristics and their value in the real estate marketplace.
 - iii. The board finds the assessment amount is reflective of the Highest and Best Use of subject property.
 - iv. The Income Approach to Value was not employed in this assessment; no evidence convinced the board that the Income Approach should be used

- over the Direct Sales Comparison Approach used by the Respondent.
- v. The board finds the Direct Sales Comparison Approach used by the Respondent to be correct.
 - vi. The Cost Approach to Value was not employed in this assessment; no evidence convinced the board that the Cost Approach should be used over the Direct Sales Comparison Approach used by the Respondent.
 - vii. The board finds specifically, the assessment amount does properly consider the location within the Sunridge Industrial area, built in 1998, with quality, condition, site coverage and configuration taken into consideration, and a total building size of 59,554 square feet.
 - viii. The board finds this assessment to be fair and equitable.

Board's Decision:

After considering all the evidence and argument before the board, the complaint is denied, and the assessment is confirmed at \$7,110,000.

DATED AT THE CITY OF CALGARY THIS 11 DAY OF August 2011.


J. Dawson
Presiding Officer

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

NO.	ITEM
1. C2	Complainant Disclosure
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.*