

**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
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:	049017502
LOCATION ADDRESS:	2985 – 23 AVE NE
HEARING NUMBER:	61347
ASSESSMENT:	\$6,860,000

This complaint was heard on 14th 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:

- *D. Porteous* *Agent, Colliers International*
- *M. Uhryn* *Agent, Colliers International*

Appeared on behalf of the Respondent:

- *K. Cody* *Assessor, The 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 boards 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 were raised.

This board had one Assessment Review Board panel member absent however a quorum had been established as permitted in the Municipal Government Act (MGA) 458(2);

The provincial member and one other member of a composite assessment review board referred to in section 453(1)(c)(i) constitutes a quorum of the composite assessment review board.

All parties were asked if they had any objection to the makeup of the panel and no objection was received therefore hearing continued as scheduled.

Property Description:

The subject property is an Industrial General (I-G) land use property with Industrial Warehouse Single Tenant (IW S) building type located in the Sunridge Industrial area. The subject site has an area of 3.05 acres providing site coverage of 40.00% with one building on site occupying a footprint and an assessable building area of 53,127 square feet built in 2000 with an office finish of 35%. The current assessment is \$6,860,000 or \$129 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 (2000), quality (B+), condition, site coverage and configuration, total building size (53,127 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: \$5,040,000 (complaint form)
\$5,530,000 (disclosure and hearing)
\$6,100,000 (alternative amount during hearing summation)

Summary of Complainant Evidence:

The Complainant provided one document which was accepted into evidence as Document C1. 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 12), 2011 Assessment Explanation Supplement (page 13), 2011 Assessment Summary Report (pages 14 and 15), photograph (page 16), sales comparison chart (pages 17), aerial map (page 18), and supporting documents (pages 19 through 34). The Complainant then summarized and requested a 22% reduction to

their assessment to \$104 per square foot truncated to \$5,530,000. During last word and final summation an alternative requested reduction of 11% or \$115 per square foot with a truncated value of \$6,100,000 was requested.

Summary of Respondent Evidence:

Respondent provided an organized document which was accepted into evidence as Document R1. 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 and 12), subject photographs (pages 13 through 15), and the subject's 2011 Assessment Explanation Supplement (AES) (page 17). The Respondent continued with equity comparables (page 18), and sales comparables (page 19). The Respondent then provided a conclusion to support their requested assessment at \$6,860,000 or \$129 per square foot.

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

1. The assessment amount is incorrect

The board reviewed carefully all the information provided by all parties on the property including the comparables provided by the Complainant and the Respondent. The board finds that the comparables provided by the Respondent are most relevant. The board finds that the Complainant failed to provide compelling evidence that the assessment was incorrect therefore the '*burden of proof*' test has failed.

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 2000, with quality, condition, site coverage and configuration taken into consideration, and a total building size of 53,127 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 \$6,860,000.

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. C1	Complainant Disclosure
2. R1	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.*