

**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:

Shaw Cablesystems Limited, 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:	027123504
LOCATION ADDRESS:	4950 – 47 ST NE
HEARING NUMBER:	62982
ASSESSMENT:	\$16,340,000

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:

- *M. Berzins* *Assessor, The City of Calgary*

Property Description:

The subject property is a Direct Control (DC) land use property with Industrial Warehouse Multiple Tenant (IW M) building type located in the Westwinds Industrial area. The subject site has an area of 8.13 acres providing site coverage of 43.25% with one building on site occupying a footprint of 153,214 square feet with an assessable building area of 160,345 square feet built in 2001 with an office finish of 15%. The current assessment is \$16,340,000 or \$102 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 (Westwinds), age (2001),

- quality (B+), condition, site coverage and configuration, total building size (160,345 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: \$10,080,000 (complaint form)
\$13,620,000 (disclosure and hearing)

Summary of Complainant Evidence:

The Complainant provided one document which was accepted into evidence as Document C1. 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), 2011 Assessment Explanation Supplement (page 12), sales comparables chart (page 13), aerial map (page 14), supporting documents (pages 15 through 44), and then summarized and requested a 16% reduction to their assessment or \$85 per square foot with a truncated value of \$13,620,000 (page 45).

Summary of Respondent Evidence:

Respondent provided one 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 subject aerial map (page 11), photographs (pages 12 through 15), and the subject's 2011 Assessment Explanation Supplement (AES) (page 16). The Respondent continued with equity comparables (page 17), and sales comparables (page 18). Respondent then provided a conclusion to support their requested assessment at \$16,340,000 or \$101 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.

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 Westwinds Industrial area, built in 2001, with quality, condition, site coverage and configuration taken into consideration, and a total building size of 160,345 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 \$16,340,000.

DATED AT THE CITY OF CALGARY THIS 16 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.*