

**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:

***363991 Alberta Limited (as represented by Assessment Advisory Group Inc.),
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:	048072904
LOCATION ADDRESS:	2299 – 20 AV NE
HEARING NUMBER:	63579
ASSESSMENT:	\$2,300,000

This complaint was heard on the 7th 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 Decision in Respect of Procedural or Jurisdictional Matters:

None

Property Description:

The subject is a 1996 vintage single-tenant industrial warehouse with a 10,750 square foot (SF) building footprint and 12,500 SF of assessable area. The area is assessed at \$179 per SF. It also has a separate 6,000 SF outbuilding assessed at \$10 per SF. The subject has 37.17% site coverage with 28% office finish on a 1.03 acre (AC) site in South Airways industrial park. The subject is assessed at \$2,300,000.

Issues:

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

Complainant's Requested Value: \$1,790,000 based on \$139 per SF for the 12,500 SF warehouse.

Board's Review 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 South Airways industrial park by using maps and exterior/interior photos of the subject.

The Complainant referenced via Real Net documents, 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	2801 – 18 ST NE	\$2,065,000	\$114	1.33 Ac.	I-G	18,065 SF	04/09/10
# 2	1936 – 27 AV NE	\$1,765,000	\$130	0.60 Ac	I-G	13,600 SF	12/01/09
#3	820 – 26 ST NE	\$2,260,000	\$127	0.88 Ac	I-G	17,850 SF	09/04/09

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.

On page 21 of his Brief C-1 the Complainant referenced his "AAG Valuation Methodology", by very briefly quoting from selected documents from each of the "Alberta Assessors Association" and the Appraisal Institute of Canada". The point of this submission and related argument was that it requires experience and judgement on the part of an Appraiser, to make the appropriate "adjustments" when comparing comparable properties. It is insufficient to merely use mathematical calculations. The Complainant noted the following:

"Alberta Assessors Association
'Market Value and Mass Appraisal for Property Assessment in Alberta'
June 1998
Valuation Guide Introduction Pg. 8 Section – Market Comparison Approach.

The differing attributes of the comparables sales may require significant adjustments in order to form point-of-comparison and the basis of valuation for the subject. If sales data is limited, it also becomes difficult to establish appropriate benchmarks to estimate values for similar properties."

"Appraisal Institute of Canada
'Basics of Real Estate Appraising' 1994
Chapter 11 – The Direct Comparison Approach (VI) Types of Adjustments
Pg. 241

Rigid mathematical calculations should not dictate the amount of the adjustment. It is the appraiser's experience and judgement that is important, as appraisal is an art rather than a decision based on mathematical calculations. Appraisal is often referred to as an art because judgement is used in the final estimate of value. This should not diminish the importance of using mathematics to assist in the value judgement.

Percentage Adjustments

Adjustments are often expressed in percentages for differences between the subject and the comparables. Percentage adjustments are often used to show any changes in market conditions and location"

The Complainant referenced Calgary CARB Decisions 2077/2010-P; 2093/2010-P; and 2103/2010-P; and 2086/2010-P. He argued that one of the Board members in each of the 4 hearings referenced is an Accredited Appraiser, and accordingly, because the Complainant was successful in securing a reduction in those 4 complaints, arguably on the basis of his adjustments, he considered his adjustment process was sound.

The Complainant clarified that he is not an accredited Appraiser, nor were the adjustments to his comparables made by an accredited Appraiser. Nevertheless, he argued that as a result of his analysis of his three comparable properties and others, he felt qualified to make 5% per decade "age" adjustments to the value of his comparables where warranted.

The Complainant noted that based on his research, he considered that each successive 10 year difference in age between two properties warranted a 5% adjustment for an older property compared to a newer one. Thus, a 20 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 11 or 12 years older than another, it would also warrant the additional 5% (i.e. total 10%) adjustment, notwithstanding the full 10 years had not elapsed.

On page 36 of his Brief C-1 the Complainant provided a matrix in which he identified various individual characteristics of his three market sales and compared them to the subject and its several characteristics. He calculated the percentage site coverage by dividing the assessed square footage of the respective buildings into the square footage of the land.

The Respondent noted however that this methodology is faulty because a building's footprint is frequently smaller than the assessable area of a building – particularly where there may be a second storey or a useable mezzanine area. Such is the case he argued, with the Complainant's comparable #2 for example which actually has only 34% (not 54%) site coverage, and 10,322 SF rentable (not 13,600 SF) and is valued by the City at \$164 per SF (not \$130 per SF).

The Complainant also provided a table of "Adjustments" for his three comparable market sales. He noted in particular, specific building age adjustments of 5% per decade (or part thereof) for certain of his properties, as well as targeted plus/minus 5% and/or 10% adjustments for building size and site coverage. He regarded these adjustments as essential to properly compare the three properties. Based on his adjustments, the Complainant calculated that an "adjusted PPSF" (price per square foot) of \$139 was appropriate for the subject and not the assessed \$179 per SF. The Complainant confirmed that the comparative property adjustments he made are based on "judgement calls" by his firm, and 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 ten year period? He questioned how, on the basis of what appeared to be a very limited number of market sales, the Complainant could reach that conclusion? He also suggested that the Complainant's calculations of alternate value were based on incorrect statistics, and questioned the basis for the quantum of his adjustments to building size and site coverage. He clarified that the Complainant has not allowed for the fact that in the City's Mass Appraisal process, larger buildings get a reduced rate per SF.

The Respondent also noted that the ages of the Complainant's three comparables, were much older than the 1996 age of the subject, at 1966; 1979; and 1980 respectively. 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 argued that the Complainant was effectively altering the City's assessments on the selected properties and using the results 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 15 of his Brief R-1. He argued that his comparable market sales were closer in age to the subject which has a 1996 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 also provided a matrix on page 17 of his Brief R-1 displaying relevant property characteristics of the subject versus the Complainant's three comparable properties. After carefully comparing them, he again concluded that they are not comparable to the subject and hence unreliable as indicators of alternate value for the subject.

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 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 much older properties to a newer 1996 property 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 10 years (or additional part thereof) for example. He assured the Board that these adjustments were either made by him or his company as the result of personal "Judgement".

The Complainant's conclusion therefore that 5% age, sight coverage, and building size adjustments are appropriate, appears to be speculative, unsupported, and therefore significantly flawed. 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.

In the Board's view, 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 \$188 per SF, with a median value of \$180 per SF. Therefore in context and in aggregate, appear to support the assessment of \$179 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.

And finally, the Board seeks to make it clear that during the course of hearings, and contrary to the suggestion of the Complainant, individual Board members do not act in any "professional" capacity whatsoever. Board members must at all times be neutral individuals, gathering and weighing evidence to arrive at informed decisions. To suggest that a Board member may be acting in any other capacity – such as an Appraiser, would appear to signify a lack of understanding of the process.

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 \$2,300,000.

DATED AT THE CITY OF CALGARY THIS 3 DAY OF August 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.*

