

**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:

MS1 Inc. (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:	048072607
LOCATION ADDRESS:	2211 – 32 AV NE
HEARING NUMBER:	63536
ASSESSMENT:	\$4,470,000

This complaint was heard on the 8th 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 Review in Respect of Procedural or Jurisdictional Matters:

None

Property Description:

The subject consists of two single-tenanted industrial warehouse buildings on one rectangular 1.49 acre lot – each building having frontage on two parallel Avenues in NE Calgary. The northerly building is an 11,759 SF 1986 single-storey structure fronting 32 AV NE assessed at \$155 per SF. The southerly building is a 14,986 SF 2007 two-storey structure with 46% finish, fronting 30th AV NE and assessed at \$178 per SF.

The two building complex is assessed at a composite \$167 per SF after receiving a “new for 2011” City of Calgary “negative adjustment” for the two buildings on one lot configuration. The subject complex is zoned Commercial Corridor 3 (C-Cor3), is located in South Airways industrial park, and assessed at \$4,470,000.

Issues:

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

Complainant's Requested Value: \$4,180,000 based on \$141 per SF.

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 photos of the subject.

The Complainant referenced via Alberta Data Search and RealNet documents on pages 8 and 9 of his Brief C-1, thirteen market sales of industrial properties. However, he chose and focused entirely on two property sales 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	3405 – 32 ST NE	\$2,550,000	\$171	1.21 Ac.	C-COR3	14,877 SF	09/21/09
# 2	225 – 58 AV SE	\$4,600,000	\$137	1.87 Ac	C-COR3	33,672 SF	11/09/10

The Complainant provided a Google map to identify the locations of the three properties relative to the subject. It was noted that property #2, the 225 – 58 AV SE location, was a considerable distance SW of the subject and comparable #1.

On page 19 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 two comparable properties and others, he felt qualified to make certain adjustments to the value of his comparables where warranted.

On page 35 of his Brief C-1 the Complainant provided a matrix in which he identified various individual characteristics of his two 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 each of the respective buildings, into the square footage of the land.

The Respondent noted however that this methodology is faulty and leads to faulty conclusions 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. He noted that building #2 on the subject was an example of this. Therefore, he argued, simply dividing the assessed area of a building into the lot area to get the site coverage, is incorrect and misleading.

The Complainant also provided a table of "Adjustments" for his two comparable market sales to attempt to bring them to a "common valuation". He provided a -5% building size adjustment for property #1 since it was 14,877 SF and #2 was 33,672 SF. He adjusted the "sold date" of #1 by -5% because #1 sold in September 2009 and #2 sold in September 2010. He then adjusted "building coverage" of #1 by another -5% because he calculated comparable #1 had 31% site coverage and #2 had 42% site coverage. In total, the Complainant adjusted his comparable #1 by a negative 15%.

The Complainant noted that he regarded these adjustments as essential, in order to properly compare the three properties. Based on his adjustments, the Complainant calculated that an "adjusted PPSF" (price per square foot) of \$141 was appropriate for both buildings on the subject and not the assessed \$155 per SF and \$178 per SF – modified to a combined \$168 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, and basis for his three 5% adjustments. 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 argued that the Complainant's calculations of alternate value were based on incorrect statistics, and again questioned the basis for the quantum of adjustments to "sold date", "building size" and "site coverage".

In addition, the Respondent argued that the Complainant's base data facts for the subject were incorrect. He clarified that the total assessable area for the subject is 26,745 SF whereas the Complainant has used 29,600 SF. He noted that the site coverage for the subject is 30.46%

and not 46% as advanced by the Complainant. He also argued that the Complainant's two comparable properties are not similar in size to the subject – one being 33,672 SF and the other 14,877 SF (the subject being 26,745 SF) and therefore are not comparable to either the subject or each other.

The Respondent also clarified that the Complainant has failed to account for a new negative adjustment the City has programmed into its 2011 assessment Model for multiple buildings on one property such as the subject. While he was unable (by Policy) to divulge the numerical value of the adjustment, nevertheless he clarified that after many MGB and ARB Decisions to reduce the assessments of these types of properties in the last four years, the City has responded to this “direction” and effected the change.

The Respondent argued that in addition to the foregoing, the City considers it critical under accepted assessment methodologies and practice, particularly under Mass Appraisal, to examine the 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 (and incorrectly) altering the City's assessments on his 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 five market sales in a matrix on page 19 of his Brief R-1. He advised that these 5 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, and was, no need to make major adjustments to them.

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 Decisions ARB 0530/2010-P and ARB 1041/2010-P in which the Complainant had presented evidence based on a methodology for adjustments similar to that presented today. He noted that the Board in those Decisions had rejected his methodology and the conclusions drawn from it. In Decision ARB 0530/2010-P, the Board found the adjustments to be “arbitrary” while noting that :

“The adjustments applied were substantial and not supported by evidence.”

Complainant's 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 the Complainant's adjustments appear to be largely unsupported by market evidence. The Complainant clarified that he is not a qualified Appraiser, nor has a qualified Appraiser produced or examined the adjustments he suggests. He assured the Board that these adjustments were either made by him or his company as the result of personal "judgement". In this regard, the Board accepts the argument of the Respondent that in accepted appraisal practice, where there are sufficient market sales, there would appear to be little need to make adjustments. The City has introduced five unadjusted sales from a database of 156 sales which are available online on the City's website.

The Board also accepts on the face of the evidence before it that the Complainant's base data appears to be incorrect and it, along with a flawed analysis has produced unreliable and unsupported results. Consequently, when taken as a whole, the Board declines to accept the Complainant's conclusions. The Board therefore appears to share the views regarding this point, as expressed in ARB 0530/2010-P and ARB 1041/2010-P as presented by the Respondent.

The Respondent provided five comparable properties selected from an apparent list of 156 city-wide sales. They were selected based on four key characteristics (among others) 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 five comparables not only appear to have individual characteristics closely matching those of the subject, but the sales prices range from \$171 per SF to \$230 per SF. Thus, in context and in aggregate, they appear to support the initial assessment (before the multi-building negative adjustment) of \$155 per SF for one building, and \$178 per SF for the other on the subject. 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 \$4,470,000.

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.*