

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

Revised

In the matter of complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Nurco Holdings Ltd. c/o Veriperm Canada Ltd.; 490850 Alberta Ltd
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
D. Pollard, MEMBER
A. Wong, MEMBER***

The complaints to the Calgary Assessment Review Board are in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER	LOCATION ADDRESS	HEARING NO.	ASSESSMENT
031500309	4 3424 26 St NE	64695	\$556,000
031500408	5 3424 26 St NE	64695	\$546,500
031500507	6 3424 26 St NE	64695	\$613,000
031500606	7 3424 26 St NE	64695	\$658,500
031500705	8 3424 26 St NE	64695	\$737,500
031500804	9 3424 26 St NE	64695	\$736,000
031500903	10 3424 26 St NE	64695	\$735,000
031501000	11 3424 26 St NE	64695	\$551,000
031501109	12 3424 26 St NE	64695	\$631,500

The complaints were heard on June 29, 2011, in Boardroom 2 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- C. Van Staden

Appeared on behalf of the Respondent:

- W. Wong

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

There were no procedural or jurisdictional matters raised during the course of the hearing by either party.

Property Description:

The subject properties are nine owner occupied, individually titled warehouse condominium units constructed in 1979, and ranging in size from 3,368 to 3,681 sq.ft., excluding mezzanine areas. Units 4, 5 and 11 do not contain mezzanines and are assessed at approximately \$152.00 per sq.ft.; the remaining units contain various amounts of mezzanine areas and are assessed at rates ranging from \$174.00 to \$203.00 per sq.ft. of main floor area.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment
4. an assessment class

At the commencement of the hearing the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter 3, an assessment amount. The Complainant set out 14 grounds for the complaints in section 5 of the complaint forms, however in the submissions the Complainant limited the issues to the four objectives set out on C1, p.2, and at the hearing provided no evidence and argument with respect to objective #4, related to equity.

Issue 1: The income approach to value is the best method of valuation for the subject property and indicates a market value range of \$98.00 to \$138.00 per sq.ft. (of improvement area). {Objectives 1 and 2}.

Issue 2: The direct sales comparison approach indicates a market value of \$120.00 per sq.ft. (of improvement area), and supports a reduction to the 2011 property assessment. {Objective 3}

Complainant's Requested Value:

The Complainant requested that the properties be valued at rates ranging from \$98.00 to \$138.00 per sq.ft. of improvement area, resulting in total assessment values ranging from \$354,500 to \$502,500 as set out on page 52 of exhibit C1.

Board's Decision in Respect of the Complainant's Issue:

Issue 1: The income approach to value is the best method of valuation for the subject property and indicates a market value range of \$98.00 to \$138.00 per sq.ft. (of improvement area). {Objectives 1 and 2}.

The Complainant argued that as a result of changing market conditions during the assessor's 36 month sales analysis period and the limited number of recent sales to June 30 of the assessment year, the assessor's direct sales comparison approach model is unreliable and an alternate valuation approach should be employed. In support of that argument, the Complainant submitted an ASR (Assessment to Sale Ratio) graph of the sales relied on by the assessor, illustrating that in only 23% of the instances the model predicted a sale price within 5% of the actual sale price of the property; in the remaining 77% of the instances the model predicted sale prices outside of the legislated range of 0.95 to 1.05 [C2, p.8].

The Complainant further argued that the income approach to value was the most reliable approach for the subject property, and submitted the following valuation parameters:

Vacancy rate: {5.0%} estimated from a number of Q1 (first quarter 2010) third party market reporting agencies [C2, p.17].

Market rent: {\$12.00 per sq.ft.- for units with greater than 30% office development}
 {\$10.75 per sq.ft.- for units with 20% to 30% office development}
 {\$ 8.50 per sq.ft.- for units with less than 20% office development}

derived from the median rent rates of 16 warehouse / office space leases ranging in area from 3,100 to 3,840 sq.ft. and commencing between May 2007 and July 2010 [C1, p.15].

Capitalization rate: {8.25%} determined from an analysis of eight industrial properties (of the 56 sales that occurred between January 2009 and June 2010) ranging in price from \$1,850,000 to \$25,825,000 and exhibiting a median capitalization rate of 7.98%. The eight sales were further analysed on the basis of their age, with the five properties constructed prior to 1994 (as is the subject property), exhibiting a median capitalization rate of 8.24%, and the three properties constructed after 1994 exhibiting a median capitalization rate of 7.79% [C2, p.19]. The Complainant indicated that the sales relied upon were of larger industrial properties, as it was impossible to find sales of condominium warehouse units with corresponding income information that could be used to establish a capitalization rate.

The Complainant set out the calculation for each of the condominium units under complaint, employing the valuation parameters as set out above to arrive at the valuation conclusions set out on page 14 of C1.

During the hearing the Complainant conceded that the income calculation was somewhat inaccurate, as no income was attributed to the mezzanine areas, however during summation the Complainant argued that the income approach was the best evidence before the Board.

The Respondent argued that the direct sales comparison approach employed by the assessor is the most appropriate approach for the subject properties, as warehouse condominiums typically trade as owner-occupied properties, with the potential income generating characteristics being less significant. The Respondent did not prepare an estimate of value by the income approach.

Decision: Issue 1

The Board finds that there was insufficient relevant evidence to conclude that the income approach to value is the best method of valuation for the subject property.

With respect to the selection of a valuation approach, the Board has on several occasions indicated that it will not identify a preference as to which valuation approach should be used to determine the assessed value of a property. Notwithstanding, there may be circumstances when one or more approaches will provide a superior estimate of value to another approach; typically when one approach mirrors the motivations of the parties in the marketplace better than does another approach. In this instance, the Respondent's assertion that warehouse condominiums typically trade as owner-occupied properties was substantiated by the Complainant, who indicated that it was impossible to find sales of condominium warehouse units with corresponding income information from which to establish a capitalization rate. Although the Complainant argued that the reported capitalization rate for condominium bays range from 6 - 9% with a median of 8%, there was no market evidence to support these figures. Further, in this instance the Complainant's income approach calculations failed to include any value to developed mezzanine areas in the subject properties, and therefore was not compelling evidence of market value.

The Board also finds that there was insufficient evidence to conclude that the assessor's direct comparison approach valuation model is unreliable, as there was no evidence submitted with respect to the median ASR, nor to the Coefficient of Dispersion of the ASR's. Further, although the Complainant's graph indicated that 77% of the sales fell outside of the legislated range of 0.95 to 1.05 for the median ASR, the Complainant conceded that the evidence suggests the model appears to estimate values below the actual sale price almost twice as often as above the actual sale price, 51% vs. 26%, respectively.

Issue 2: The direct sales comparison approach indicates a market value of \$120.00 per sq.ft. (of improvement area), and supports a reduction to the 2011 property assessment. {Objective 3}

The Complainant submitted three sales of condominium warehouse bays that transferred between December 2008 and December 2009, exhibiting the following particulars: [C1, p.17].

Address	Sale Price	Net Rentable Area	Rate / sq.ft
9 3800 19 St NE	\$575,000	3,500	\$164
9 2219 35 Av NE	\$540,000	3,072	\$176
3 3424 26 St NE	\$975,000	5,628	\$120

The Complainant argued that the sale of 3 3424 26 St NE, within the subject complex, was the most comparable to the subject properties, and the best indicator of value at \$120 per sq.ft.

In support of the assessment the Respondent submitted a summary of eleven sales of warehouse condominium units exhibiting time adjusted sale prices ranging from \$150 to \$231 per sq.ft., exhibiting an average and median of \$206 and \$217 per sq.ft. respectively [R1, p.18]. Four of the sales were supported with third party sale reports, including the sale of 3 3424 26 St NE, (common to the Complainant's evidence), however, indicating a total area of 4500 sq.ft.

Decision: Issue 2

The Board finds that the sales evidence supports a market value range consistent with the subject assessments.

The Complainant's sales at page 17 of C1 reflect a value range of \$120 to \$176 per sq.ft., however the RealNet document for the sale at 3 3424 26 St NE (within the subject complex) is unclear as to the actual size of the unit. The size indicated in the general summary is indicated to be 5,628 sq.ft.; the size in the property details section is indicated to be 3,488 sq.ft.; and the respondent relied upon an area of 4,500 sq.ft. of main floor area in their calculation with no supporting documentation. As neither party verified their evidence, the Board is unable to reach any conclusions from this market indicator.

The Complainant's remaining sales establish a value range of \$164 to \$176 per sq.ft. in relation to the range of assessed values of the subject properties at \$152 to \$203 per sq.ft., and well above the Complainant's requested range of \$98 to \$138 per sq.ft.

The Respondent's seven sales which were unsupported with transfer documentation, sales agreements, or even third party sale confirmations were afforded little weight, however the three remaining supported sales exhibit a range of values from \$196 to \$211 per sq.ft., well above the Complainant's requested values, and supportive of the current assessments.

Board's Decision:

The assessments are confirmed as set out below:

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DATED AT THE CITY OF CALGARY THIS

10

DAY OF AUGUST, 2011.


J. Krysa
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission
3. C2	Complainant's Submission – Capitalization Rates
4. C3a	Complainant's Rebuttal Submission – Part 1
5. C3b	Complainant's Rebuttal Submission – Part 2

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.*