

**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:

***Kalsi Holdings Corporation
(as represented by Assessment Advisory Group Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
Y. Nesry, MEMBER
E. Reuther, 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:	200897197
LOCATION ADDRESS:	125 7 Westwinds Crescent NE
HEARING NUMBER:	64822
ASSESSMENT:	\$416,000

The complaint was heard on July 29, 2011, in Boardroom 8 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

T. Howell

Appeared on behalf of the Respondent:

G. Bell

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

At the commencement of the hearing, the Respondent objected to the Complainant's evidence submission on the ground that it was not disclosed within the proper time pursuant to s.8 of *Matters Relating to Assessment Complaints Regulation, AR 310/2009*. The Complainant argued that the email transmission did not occur due to a system error, and when discovered the next morning, the materials were immediately resent, causing no prejudice to the Respondent.

Decision:

The Board accepts the submission as evidence for the following reasons:

1. There was a request that the hearing for this Complaint and the hearing of File # 64819 be scheduled together;
2. The hearings were scheduled for the same date, time and location, as per the request;
3. The evidence for File # 64819 was disclosed within the proper time;
4. The evidence is the same as that disclosed with respect to file #64819;
5. The evidence was immediately resent the next morning;
6. The Respondent conceded there was no prejudice to his case; and
7. The Board considers it a matter of procedural fairness, as there was no evidence that the system error was attributable to the Complainant's mail server.

Property Description:

The subject property is a 1,981 sq.ft. (square foot) warehouse condominium unit, constructed in 2006, and assessed at a rate of \$210 per sq.ft.

Issues:

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

3. an assessment amount

The Complainant set out several grounds for the complaint in section 5 of the complaint form with a requested assessment of \$368,000, however at the hearing the Complainant led evidence and argument only in relation to the following issue:

Issue: The assessed value is incorrect and fails to meet the legislated standard of market value. The direct sales comparison approach exhibits a value of \$155.00 per sq.ft.

Complainant's Requested Value:

At the hearing the Complainant requested the assessment be revised to \$306,395.

Parties' Positions

In support of the requested assessment, the Complainant submitted evidence of three sales of condominium units located in proximity of the subject property that occurred between August 31, 2009 and March 30, 2010. The properties ranged in size from 2,150 to 2,600 sq.ft. and exhibited a range of sale prices from \$147.00 to \$167.00 per sq.ft., with an average of \$155.00 per sq.ft.

In cross examination, the Complainant conceded that two of the comparable sales had a Sub-property use of "IN0610 – Industrial Condominium" identified on the Assessment Summary Reports at pages 12 and 16 of C1, but argued that notwithstanding the Assessor's classification, they were similar and comparable to the subject property.

In support of the assessment, the Respondent submitted evidence of four sales of commercial condominium units located in proximity of the subject property that occurred between January 20, 2009 and March 30, 2010, including one common to the Complainant's comparables. The properties ranged in size from 1,328 to 2,494 sq.ft. and exhibited a range of sale prices from \$183.64 to \$270.33 per sq.ft., with average and median rates of \$221.21 and \$215.44 per sq.ft., respectively.

The sale of 244 55 Westwinds Crescent NE, common to the Complainant's evidence was indicated to be 1,328 sq.ft. in size (excluding mezzanine area) and exhibited the highest sale price at \$270.33 per sq.ft., in contrast to the Complainant's calculation at \$167.00 per sq.ft. (including mezzanine area within the total area calculation).

In further support of the assessment, the Respondent submitted evidence of four "post facto" sales of commercial condominium units located in proximity of the subject property that occurred between September 20, 2010 and March 30, 2011. The properties ranged in size from 1,454 to 1,540 sq.ft. and exhibited a range of sale prices from \$207.79 to \$254.20 per sq.ft.

In support of the position that commercial warehouse condominiums attract a premium in the market, the Respondent provided evidence of a sale at 331 32 Westwinds Crescent NE, exhibiting a sale price equating to \$166.43 per sq.ft. The Respondent argued that this sale, plus the Complainant's two "industrial" condominium sales demonstrate that the market for commercial condominium units is distinct, and at a premium to industrial condominium units.

In rebuttal, the Complainant argued that all of the comparable sales are identified as "Industrial" on the sales data sheets in evidence, and that notwithstanding the Assessor's stratification, the market does not differentiate between them.

Board's Decision in Respect of the Issue:

The Board finds that there was insufficient evidence to conclude that the assessed value is incorrect, or fails to meet the legislated standard of market value.

The Board finds that the Assessor's stratification of "Commercial" and "Industrial" condominium units was not clearly supported by the evidence. The Respondent's sale of an "Industrial" condominium unit located at 331, 32 Westwinds Crescent NE, was detailed on page 35 of R1, as follows:

- 1,885 sq.ft. warehouse bay, concrete block construction, grade load doors, 23 foot ceiling height, with 3 phase power and paved parking.

In contrast, the Complainant's sale of a (CM0610 – Retail Condo) "Commercial" condominium unit at 244, 55 Westwinds Crescent NE was detailed on page 13 of C1, as follows:

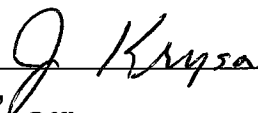
- 2,150 sq.ft. warehouse bay, concrete block construction, a grade load door, 21 foot ceiling height, with 3 phase power and paved parking.

The Board notes that the data sheet descriptions of the physical characteristics of the other properties in evidence were generally indistinguishable, regardless of whether they were stratified by the Assessor as "Commercial" or "Industrial". Notwithstanding the issue of stratification however; the Respondent's evidence at page 28 of R1, contained ample sales of warehouse condominium units to support the subject's assessed rate of \$210.00 per sq.ft. as applied to the main floor area.

Board's Decision:

The assessment is confirmed at **\$416,000.**

DATED AT THE CITY OF CALGARY THIS 23 DAY OF SEPTEMBER, 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

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Unit Ownership	Sales Approach	Classification