

**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:

764916 ALBERTA LTD., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. COLGATE
Board Member R. DESCHAIINE
Board Member S. ROURKE***

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: 201116514

LOCATION ADDRESS: 7211 110 AVENUE SE

HEARING NUMBER: 62576

ASSESSMENT: \$4,500,000

This complaint was heard on 27th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *Marco Simonelli – Representing 764916 Alberta Ltd.*

Appeared on behalf of the Respondent:

- *Jason Lepine – Representing the City of Calgary*

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

The board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Before proceeding with the hearing, the Board raised the question regarding the presentation by the Complainant. The Board wished to know if the presentations would be the same for the three hearings scheduled for the day and if the Complainant intended to make only one presentation to be referenced to all three hearings. The Complainant confirmed only one set of evidence was submitted to be presented for all three hearing, so would only be making the presentation once.

The same question was given to the Respondent by the Board. The Respondent stated there were three separate submissions with differing evidence in each, therefore they would be making three presentations.

The decision of the Board was to proceed with the Complainant's presentation, with questions from the Respondent and the board, and then hear all three submissions from the Respondent, with questions from the Complainant and the Board. The presentation from the Respondent would be reference to the three hearings – Roll Numbers 201116514, 201116506 and 201118288.

Property Description:

The subject is a 30,245 square foot industrial warehouse with a single tenant. The structure is located on 1.83 acres of land with site coverage of 37.94%.

Issues:

The assessed value is too high based upon analysis of land values and comparable buildings. The year-to-year increase on special purpose industrial properties is not supported in Calgary market.

Complainant's Requested Value: Complainant requested a rate of \$75.00 per square foot or \$2,268,375 for building plus land at \$500,000 per acre or \$915,000. Total requested value is **\$3,183,375.**

Board's Decision in Respect of Each Matter or Issue:

Complainant's Evidence:

A map was provided by the Complainant to show the location of the subject and comparable properties.

The Complainant's evidence is comprised of three written exhibits – C1, C2, C3 – submitted to the Board and testimonial evidence at the hearing. Submissions C1 and C2 contain the same evidence.

In the documents identified as C1 and C2, the Respondent raised a number of points –

1. The City contends the value of 'large, special purpose industrial properties in Calgary are enjoying a revitalization in the order of anywhere from 13 – 19%'. There is no increase in the rental market but 'the opposite is true and rental rates are actually seeing a reduction in the neighbourhood of 20%';
2. Sale of industrial lots is 5% lower than last year's assessed values;
3. The 11% mill rate increase being passed along to industrial owners with a resulting tax increase in the range of 24-30%.

The accompanying table in submissions C1 and C2 presents graphic evidence to the percentage shift 2010 to 2011 for assessment values and taxes.

Exhibit C3, while containing some matter presented in the two previous briefs, provides a table analyzing the value of the land areas and the buildings separately. The process involves removing the land value at a rate of \$500,000 per acre from the assessed value in order to derive a building value. The building value is divided by the area of the building to calculate a rate per square foot for the building. The Complainant had carried out this process for the subject properties and five comparable properties in the immediate vicinity. Based upon the calculation the Respondent is requesting a rate of \$75.00 per square foot be applied to the buildings plus a land rate of \$500,000 per acre to determine the total assessment for the properties. The land rate of \$500,000 is based upon the sales by the Respondent. Assessment Summary Reports were provided for the subject and comparable properties.

Respondent's Evidence:

The Respondent provided a 2011 Assessment Explanation Supplement which showed the warehouse being assessed at a rate of \$148.00 per square foot. With site coverage of 37.94%, there is no adjustment for additional or excess land.

A 2011 Industrial Equity Comparables chart provided 7 comparable warehouses in the southeast quadrant of the City which were of similar size, age, site coverage and rate per square foot.

The Respondent presented a copy of Colliers International – Canada: Cap Rate Report, referencing the Industrial Cap Rate table which lists the cap rate for single tenant industrial from a low of 6.75% to a high of 7.25%.

The Respondent, to provide support for assessment value determined from an analysis of sales for industrial warehouses, has analyzed the subject through an income analysis. Based upon

the rents received, as provided by through an Assessment Request for Information, and applying typical vacancy and capitalization rate the Respondent has determined the income value of the subject is \$5,350,236. The subject is currently assessed for \$4,500,000.

The Respondent included copies of the Assessment Request for Information and quotes from third party reports in the submission.

Findings of the Board

Complainant's Submission:

The year-over-year analysis of percentage change, while a valid concern to the Complainant, by itself does not provide a compelling argument for change to the assessment. Assessments are prepared annually based upon new information being added each year to establish the assessed values. An atypical change in the assessed value from a previous year is instead an indication that there may be an issue with assessed value. The Board therefore notes, but does not place all weight on the shift year-over-year in its determination of the assessment value.

The issue of taxes is one which the Board is not allowed under regulation to deal with in the Assessment Review Board hearings. While taxes are relevant to the owners of properties, the Board is empowered to deal with only matters of assessment and market value. Accordingly, the Board will not discuss tax shifts or their impact on owners.

The Board finds there are numerous flaws in the table which compared the subject properties and the comparables –

1. The use of \$500,000 per acre, which the Respondent states is the price received by the Respondent for his lots, is not supported by any market evidence for the Board to review;
2. The change in the rate per acre for land varies from \$500,000 to \$650,000 per acre, again with no supporting market evidence for the Board to review;
3. The use of industrial condominium units, which sell in a different market from single title warehouses, to establish a value for a single title property;
4. The use of older, poorer quality warehouses as comparables for the subject properties – 10120 52 Street SE and 5144 80 Avenue SE;
5. The application of the Respondent's method of determining the value of the building actually resulted in a negative value for one comparable – 10120 52 Street SE – an unrealistic situation when a structure is still usable.

Finally, the Board has strong reservations with respect to the approach employed by the Complainant. The Complainant has endeavored to determine the value of the subject properties by segmenting the Market Value assessment prepared by the City of Calgary into a land and building value. The City of Calgary, when determining the market value assessments, does not look at the elements of land and building separately, but looks to the total package sale price. In the market place, a vendor does not list nor does a purchaser offer to buy a property with the land and building valued separately. The sale price is negotiated as one price for the total package – land and building with no breakdown.

Respondent's Submission:

The Board found the Respondent had provided a number of equity comparables, but noted that none were similar with respect to the amount of finish in the building. The subject assessment does fall within the range of the comparables and falls closely with the comparables located at 11510 40 Street SE and 7100 112 Avenue SE.

The analysis, based upon the income approach, provides additional evidence as to the market value of the property. The application of the income approach, although not the analytical method used by the City of Calgary to determine the market value assessment, does substantiate the assessment.

Board's Decision:

Based upon the lack of compelling market evidence to support the Complainant's position, the Board believes the onus of proof has not been met by the Complainant and finds no grounds to alter the assessment.

The assessment is confirmed at \$4,500,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF August 2011.


Philip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. C3	Complainant Rebuttal
4. 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.*