

**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:

***Lions Gate Group of Companies LTD. (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
A. Zindler, MEMBER
E. Bruton, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	119001006
LOCATION ADDRESS:	9559 – 40 ST SE
HEARING NUMBER:	66386
ASSESSMENT:	\$10,600,000

This complaint was heard on 21st day of August, 2012 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. J. Smiley – Altus Group Limited*

Appeared on behalf of the Respondent:

- *Mr. I. McDermott - Assessor – City of Calgary*
- *Mr. J. Tran - Assessor – City of Calgary*

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None.

Property Description:

[3] The subject is classified as a 1979 two-building (including one outbuilding) single-tenant industrial warehouse on 18.77 acres (Ac.) of land – including 14.529 Ac. of “Extra Land” in the Foothills (2) industrial park. There is an incremental or “positive” adjustment for the “extra land” of \$6,180,621. The typical market rate of \$525,000 per Ac. for the area's I-G zoned land has been adjusted downward by 15% to account for the so-called “South Foothills reduction” for negative local improvement servicing issues.

[5] The main building onsite has a 47,014 SF building footprint and 55,810 SF of assessable space; 29% finish; and is valued at \$77.68 per square foot (SF). The outbuilding has an 8,400 SF “footprint” and is valued at \$10.00 per SF or \$84,000. The subject has been assigned a “typical” site coverage of 30%, resulting in an overall assessment of \$10,600,000 or \$189.93 per SF.

[6] **Issue:**

What is the market value of the subject property based on the Cost Approach to Value instead of the Direct Comparison Approach to Value?

[7] **Complainant's Requested Value:** \$6,160,000.

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

[8] The Complainant clarified that while the subject has a *de facto* site coverage of about 6%, the City has assessed it at a deemed "typical" 30% site coverage. He argued that this is incorrect and that one must look at the actual site coverage to determine a correct market value. He also noted that the site has very limited access.

[9] The Complainant argued that because of the subject's low site coverage, its limited access, and, its 33 year old main building, the value of the site is primarily in the land. These factors he argued, make the subject unique in the marketplace, and therefore the Cost Approach to Value is the preferred methodology to value the site and not the Direct Comparison Approach used by the Assessor. He provided a copy of Board decision CARB 1736/2011-P which he argued supported his position on this point.

[10] The Complainant argued in his "Summary of Testimonial Evidence" (C-1, page 4) that to correctly calculate the land value portion of a cost approach to value calculation, one must consider the following:

"While there has been a dearth of large parcel industrial sales in recent years, two occurred in 2012 giving a strong indication of value. Both traded at around \$150,000 per acre. One has no services, and the other has partial services and limited access, so in each case an assessment on those parcels would discount by 50% (-25% for partial services, -25% for limited access, -50% for no services). We believe that to be a reasonable estimation of adjustment of value for those conditions.

In each case, doubling those values to account for the -50% adjustment for condition would return a typical per-acre land value of approximately \$300,000 per acre. These values strongly support the median of the six large parcel land sales presented."

[11] The Complainant clarified that the City's Direct Comparison Approach methodology, based on three years of market sales of properties smaller than the subject, relies on adjusted land values of \$525,000 per acre which, although he considered it flawed methodology, is applied to properties like the subject in the following manner:

"For the first 10 acres – valued at market - \$525,000 per Ac.
For 10 to 20 acres – 85% of market value (as above)
Over 20 acres – 75% of market value"

[12] The Complainant argued that the City's market sales based methodology is not accurate for valuing the subject's market value because of the persistent lack of sales of large parcel properties. Therefore, he offered a list of six unadjusted market sales of properties ranging in size from 19.91 Ac. to 56.17 Ac. and valued between \$146,395 per Ac. to \$374,045 per Ac. He identified that the sales dates ranged from July 2007 to June 2011. He noted that the average value of the six sites was \$271,099 per Ac. and the median value was \$301,349 per Ac. He argued therefore that the indicated value of large parcel properties like the subject is \$301,000 per Ac. and not the City's \$525,000 per Ac.

[13] In response to questions from the Respondent, the Complainant acknowledged that the first four of his six sales were parts of four separate portfolio sales, and two of those were a re-sale of the same property, but nevertheless he argued that examining portfolio sales has merit, contrary to the City's position on this point.

[14] The Complainant pointed to the last two of his six sales - one at 7295 – 106 AV SE of 19.91 Ac., and the other at 6335 – 57 ST SE of 56.17 Ac. He noted that both are I-G zoned land like the subject, both sold in 2011, and transacted for \$146,395 and \$155,777 per Ac. respectively. He provided the “Commercial Edge” information sheets for the two sales. He indicated these two recent sales displayed an average value of about \$150,000 per Ac. Therefore, he reasoned, that even if one doubles the land value to \$301,000 per Ac, this value is a more accurate representation of land value for the subject than the City’s \$525,000 per Ac.

[15] The Complainant argued that using the Marshall and Swift (M&S) Costing methodology, the indicated depreciated value of the main onsite improvement is \$1,522,790. He argued that when this depreciated value is added to the value of the 8,400 SF outbuilding at \$10 per SF, plus the land value at \$301,000 per Ac. for the site’s 18.77 Ac., the overall calculated value is \$7,256,560. He argued that this value should then be reduced by -15% to \$6,160,000 to account for the “South Foothills negative local improvement servicing issues”.

[16] The Complainant provided the Marshall and Swift costing sheet calculations for the main building on the subject, noting that it had an “effective age” of 32 years and had been “depreciated” in the calculation by 50%, meaning that approximately half of its economic life remained. He clarified that he did not personally visit the site or prepare the costing calculation but was familiar with its content, although he could not personally attest to the accuracy of the costing inputs. He offered that the Cost Approach to Value indicates that the subject is not well-served by the City’s existing Direct Comparison assessment methodology.

[17] The Complainant also argued that if the market sales methodology is the preferred valuation methodology, then the land value for the extra land should be assessed at \$301,000 per Ac. rather than \$525,000 per Ac. This would produce an indicated value of \$8,792,929 for the subject which should also be reduced by -15% for the South Foothills servicing adjustment.

[18] The Complainant briefly referenced the City’s five market sales comparables used to support the assessment and argued that these comparables are not a valid basis of comparison because the City is attempting to compare approximately 3 acre sites to the subject’s 18.77 Ac. Therefore, he argued, the City’s market sale comparables do not support the City’s assessed value for the subject.

[19] The Complainant requested that the assessment be reduced to \$6,160,000.

[20] The Respondent argued that the subject has been assessed using the Market (Direct) Sales Approach to Value and not the Cost Approach because the improvements on the subject are not “special purpose” or “purpose built” buildings, and are typical of the warehouse type of land use prevailing in the locale of the subject. He noted that while the Complainant has argued that the subject’s 33 year old improvement has exhausted most of its economic life and the value is in the land, nevertheless in the Marshall and Swift calculations the Complainant provided, the improvement had only been depreciated by 50% and not 80% to 90% one might have expected under such conditions.

[21] The Respondent also questioned whether the Complainant had personally visited the site and could attest to the office input portion of the Marshall and Swift (M&S) calculation as “Mezzanine Office”, since it appeared from site photos to be “typical two-storey office space”, both of which are valued differently by M&S calculations. The Complainant confirmed that he

had not visited the site, nor did he personally calculate the M&S valuation and therefore he could not confirm or deny this point.

[22] The Respondent clarified that through analysis of current market data, the City has determined that industrial warehouse properties like the subject typically have a 30% site coverage. Therefore when low site coverage properties like the subject are being assessed, according to accepted assessment practice, the City adjusts the site coverage up to 30% so that they can be compared more accurately with other similar sites. He intimated that this practice is of minor benefit to such sites because as site coverage increases, values decrease slightly, but at 30%, there is essentially neither a benefit nor detriment as the Complainant has suggested.

[23] The Respondent argued that the Complainant's request to reduce the final value of the subject, as indicated by his Marshall and Swift calculations, by an additional 15%, is flawed. By doing so, he argued, it would have the affect of also reducing the value of the replacement costs for the improvements by 15% which is erroneous.

[24] The Respondent clarified that if it were relevant and warranted, only the land portion of the Marshall and Swift calculation would be reduced, however he noted that the subject has already received a 15% reduction in the land value to compensate for the "South Foothills" servicing affect. He noted that this fact is indicated on the City's Assessment Explanation Supplement (AES) for the subject, copied to page 10 of the Complainant's C-1 document.

[25] The Respondent also clarified via a "servicing sketch map" that the subject has access to potable water, sanitary sewer, and/or storm sewer on most of its perimeter, although it appears that only water has been brought into the site. He clarified that the previously-noted South Foothills reduction of -15% as applied to the subject, is designed to recognize these types of circumstances.

[26] The Respondent argued that while the Complainant has provided six market sale comparables, the first four are "dated" sales from 2007 and early 2008. He argued that none of these four sales would have been used in the City's analysis of three years of market sales transacting between July 1, 2008 and June 30, 2011 in the current assessment cycle. They would not have been used to determine the current market value of the subject because to do so would "skew" the results.

[27] The Respondent reiterated that the first four of the Complainant's six sales were parts of four separate portfolio sales, and two of those were a resale of the same property. He provided copies of the RealNet information sheets to support this point, and to highlight additional reasons why the City would not have relied on these sales as an indication of value for the subject and other similar properties.

[28] The Respondent also argued that the Complainant's fifth sale comparable at 7295 – 106 AV SE represents two legally non-contiguous parcels with no services and no legal access unlike the subject. He suggested that this sale should be adjusted upwards by 75% to make it "typical" and comparable to other properties, but major adjusting actions of that magnitude would deem it unsuitable as a legitimately comparative property.

[29] The Respondent provided two matrices – one containing five market sales of property comparables, and the other containing five land value market sale comparables, all to support the subject's assessment. He argued that the values for the five market sale properties shown in his matrix, range from \$78.21 per SF to \$123.81 per SF, and the subject at \$77.68 per SF accords reasonably well with this range of values, despite being on the lower end of the range. He argued that this evidence supports the assessment.

[30] The Respondent also argued that the five land value market sales comparables in his second matrix demonstrate a median value of \$523,810 per Ac. which was also used to assess the "extra" land portion of the assessment. He argued that while the acreage sizes of these sites are smaller than the subject, the City's model provides appropriate adjustments to them so that they compare to the larger parcels like the subject, as required in the Mass Appraisal process.

[31] The Respondent argued that the Complainant has provided insufficient evidence to support his argument that the subject is over-assessed. He requested that the Board confirm the assessment.

Board Findings

[32] The Board finds that given the evidence before this Board, the improvement on the subject is not a "special purpose" or "purpose built" building and is correctly assessed using the Direct Comparison Approach to value.

[33] The Board finds that unlike the Complainant, and given the evidence before the Board in this hearing, it does not consider a three-issue combination of low site coverage, limited access/services, and dated 33 year old buildings on this property to be indicative of the need to assess the site using the Cost Approach to Value.

[34] The Board finds that the Complainant has not visited the site and is unable to personally clarify or verify any of the various inputs into the Altus Cost Approach calculation, nor is the person who prepared the calculation present before the Board to respond to questions regarding the calculation. Therefore the Board is unable to validate any of the inputs to the calculation, particularly with respect to the office portion of the calculation.

[35] The Board finds that the Complainant's calculated alternate land value of \$301,000 per Ac. to be unreliable because four of the six unadjusted market equity comparables used by the Complainant are "dated" portfolio sales which the Board considers to be invalid and unreliable for determining alternate land values applicable to the subject.

[36] The Board finds that while none of the Complainant's sales are adjusted in any manner, nevertheless the fifth sale would require significant adjusting to render it "typical" because of a lack of servicing and related matters, and therefore it is considered an unreliable indicator of alternate value for the subject.

[37] The Board finds that in totality, the Complainant's market sales evidence does not support a valid alternate land value for assessment purposes of \$301,000 per Ac. as advocated by the Complainant.

[38] The Board finds that contrary to the assertions of the Complainant, the subject has already received a 15% land value reduction in its assessment calculation to compensate for the so-called "South Foothills" servicing affect.

[39] The Board finds that the Respondent's five fully-adjusted market sale comparables display individual site characteristics (i.e. building size; site coverage; building age; etc) which closely match each other and the subject, and hence support the assessment of the subject.

[40] The Board finds that the Respondent's five fully-adjusted market sales comparables display individual market values ranging from \$78.21 per SF to \$123.81 per SF, and that the subject's \$77.68 per SF reflects this range. This evidence supports the assessment.

[41] The Board finds that the Respondent's five adjusted market sale comparables support the land value of \$525,000 per Ac. used in the "extra land" portion of the subject's assessment.

[42] The Board finds that the Complainant supplied insufficient information to demonstrate that the assessment of the subject is incorrect and/or inequitable.

[43] The Board finds that while it may have regard to previous CARB decisions, it is not bound by them and must decide the merits of this appeal in an unfettered manner on the basis of the evidence and argument provided at this hearing.

Board's Decision:

[44] The assessment is confirmed at \$10,600,000.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF September 2012.


K. D. Kelly
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C-1	Complainant Disclosure
2. C-2	Complainant Disclosure – Rebuttal
3. R-1	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.*

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	Single-tenant	Market value	Direct Comparison VS Cost Approach to Value