

**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:**

***Marcoux Bros. Trucking 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:

<b>ROLL NUMBER:</b>	<b>119008894</b>
<b>LOCATION ADDRESS:</b>	<b>9416 – 40 ST SE</b>
<b>HEARING NUMBER:</b>	<b>66387</b>
<b>ASSESSMENT:</b>	<b>\$5,160,000</b>

This complaint was heard on 22<sup>nd</sup> 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 1978 two-building single-tenant industrial warehouse on 8.914 acres (Ac.) of land – including 6.57 Ac. of “Extra Land” in the Foothills (2) industrial park. There is no incremental or “positive” land adjustment for the “extra land”. There is however a negative or downward adjustment for both a “multi-building” factor, and, the “South Foothills reduction for local improvement issues” which have been applied to the subject.

- [5] The first building has a 12,960 SF “footprint”; 13,460 SF of assessable space, 4% finish, and is valued at \$167.71 per square foot (SF) or \$2,257,317.98. The second building has a 17,645 SF “footprint”; 20,670 SF of assessable space; 29% finish; and is valued at \$140.60 per SF or \$2,906,162.97. In aggregate, the two buildings generate a combined site coverage of 7.88% and an overall assessment of \$5,160,000.

- [6] **Issue:**

What is the correct market value of the subject based on its 2007 sale while using the sales comparison approach?

- [7] **Complainant's Requested Value:** \$3,250,000.

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

[8] The Complainant clarified that the subject sold November 8, 2007 for \$4,000,000. He supplied the RealNet and Alberta Data Search information sheets which documented the sale. He argued that the sale of the subject in 2007 is the best indication of current value for this property. He advised that because the market was "flat" in 2008, the City's 2009 assessed value of the subject, and for other similar industrial properties, had not increased year-over-year. Therefore he argued, while the subject had sold in 2007, and pursuant to City practice, its 2008 assessed value could still be included and analyzed in conjunction with three years of market sales from 2008, 2009, and 2010 to establish a current typical market value for the subject and others.

[9] The Complainant supported this argument by referencing a matrix of four time-adjusted sales comparables taken from a City brief which had been prepared for an appeal of the subject's 2009 assessment. He noted that the City's time-adjusted values for the two 2007 and two 2008 sample properties had not changed year-over-year. However, since that time and up to the present he argued, analysis of market sales over the past three years appears to indicate a decline in the market of 18.6%.

[10] The Complainant argued that the subject's assessed value has been reduced on appeal to a time-adjusted price every year since the assessment year following the occurrence of the 2007 sale. He clarified that the subject was assessed at \$5,140,000 last year and was reduced on appeal, to \$3,760,000, but this year, the assessment has increased to \$5,160,000. He argued that the year-over-year assessment increase of +/-30% from the 2011 "Board reduced" value of \$3,760,000 is not warranted or supportable by market data.

[11] The Complainant provided the 2012 assessments for three property comparables which he argued are similar to the subject. He argued that the Assessment To Sale Ratios for these three properties range from 1.15 to 1.43 which is indicative of properties that have been over-assessed by at least 15% to 43%. He argued that this data is symptomatic of ongoing errors in the City's model for these types of properties.

[12] The Complainant argued that while the sale of the subject is a four year old transaction, it is still the best indication of value for it. He acknowledged however that in appraisal theory, as sales become "older", they become "less reliable". Nevertheless, he noted that prior to 2012 the City had used this sale as a market sale comparable for the preceding three years in its own evidence packages to support assessed values for similar properties, until it was deleted this year in 2012. He considered that this was "unhelpful" to the process because although he had not personally visited and inspected the subject, he was confident that nothing about the subject had changed year-over-year.

[13] The Complainant clarified that in its analysis of current market value, the City analyzes market sales data which is 3 years old and newer. In the case of the 2012 assessment cycle, this means the City analyzed valid market sales from July 1, 2008 to June 30, 2011. He argued that this time frame is merely an arbitrary cut-off, which, when strictly applied, eliminates the continued inclusion and analysis by the City of the subject's 2007 sale, with this year's grouping of +/- 160 market sales. He considered this to be flawed analysis.

[14] The Complainant reiterated that based on the City's +/- 160 time-adjusted market sales, as taken from the City's website and displayed in his evidence package C-1, it is clear that an average decrease of 18.6% has occurred over the past three years in Calgary's industrial market. Therefore he suggested that by adjusting the subject's current assessment of \$5,160,000 by a negative 18.6%, he would arrive at an adjusted market value for the subject of \$3,250,000 (rounded).

[15] The Complainant provided copies of ARB 1242-2010-P and CARB 0865/2011-P, both of which dealt with assessment appeals and subsequent reductions for the subject in previous years. He argued that in each case, the Board reduced the assessment based on the 2007 sale. Therefore he requested that the Board reduce the 2012 assessment to \$3,250,000.

[16] The Respondent argued that the Complainant's request for an assessment reduction is based upon flawed methodology that has no basis in currently-accepted appraisal or assessment practice. He also provided and referenced several sections of "Chapter 2" of the "Guide to Property Assessment and Taxation in Alberta" as published by Alberta Municipal Affairs. He noted that for many of the reasons listed in this "Guide", the selling price of a property may not be the best indication of value.

[17] The Respondent also noted that the "Guide" establishes that market sale prices help to establish a "range of sale prices of groups of similar properties at a specific point in time". Therefore, he argued, to simply reduce a "dated" 2007 market sale by a perceived (intervening years) value reduction factor of 18.6% as the Complainant proposes, is inaccurate and unacceptable methodology.

[18] He argued that for Mass Appraisal purposes the City has, since 2005, consistently used the most recent three years of sales for each new assessment year or cycle. Consequently, for 2012, this meant analyzing valid market sales which occurred between July 1, 2008 and June 30, 2011, a process the Complainant has referenced.

[19] The Respondent noted therefore, that while the subject's 2007 sale was analyzed as part of previous assessment cycles, this is no longer the case. He argued the City now considers the subject's 2007 sale to be "dated", and no longer representative of the current market which has clearly changed over time.

[20] The Respondent countered that the Complainant has, on the one hand, criticized the City for using three years of market sales instead of the two most current years, but in this instance the Complainant is relying on a four year old 2007 sale. He noted that to assess the subject in 2012, the City has used the most recent market sales which transacted closest to the valuation date of July 1, 2011. He argued that these recent sales are a more accurate indicator of typical market values for the current assessment cycle, and it is against these values to which the subject must be compared. He noted that the sale of the subject in 2007 may have typified the market in that era, but it does not today.

[21] The Respondent argued that while the Complainant has provided three market sale property comparables which he used to compare to the subject, and to indicate alleged over-assessments, he suggested one of them at 6215 – 86 AV SE is an invalid sale. In addition, he argued that the three properties contain less than half of the subject's 8.914 acres and are therefore not comparable. He also clarified that in the City's assessment model, there will be

“low” and “high” assessment values which are considered to be “outliers” and hence of limited value in the Mass Appraisal process. Therefore, he argued, the Complainant’s arguments regarding alleged +/- 30% over-assessments and the reliability of the City’s model, lack validity.

[22] Moreover, the Respondent provided a matrix of six market sale property comparables – one of which is a multi-building site like the subject, against which he compared the individual site characteristics of each property to each other, and to the subject.

[23] The Respondent clarified that his six market sales occurred between 2008 and 2011 and ranged in value from \$140 per SF to \$238.90 per SF. The Respondent argued that the assessed values of the subject’s two buildings at \$140.60 per SF and \$167.71 per SF fit within this range of values and support the assessment. He clarified that the City has time-adjusted these sales based upon Multiple Regression Analysis and not in the manner chosen by the Complainant for the subject’s sale.

[24] The Respondent provided a matrix of four assessment equity property comparables and noted their several and individual site characteristics which, he argued, closely match each other and the 12,960 SF building #1 on the subject. He provided a second matrix of three equity property comparables and described and compared their individual characteristics to each other and the subject’s 17,645 SF building #2. He argued that this evidence also supports the assessment.

[25] The Respondent supplied three Calgary Assessment Review Board decisions – ARB 0540/2010-P; CARB 0855/2011-P; CARB 1033/2011-P, which he considered supported his arguments in this appeal.

### **Board Findings**

[26] The Board concurs with the Respondent that the sale of the subject in 2007 is a “dated” sale and has limited relevance to the current assessment cycle.

[27] The Board finds that for the current assessment cycle, the subject is being compared by the Respondent to a host of more recent valid market sales which typify current market conditions and not those surrounding the subject in 2007.

[28] The Board accepts the Respondent’s arguments, as supported by provincial guidelines, that the Complainant’s proposal to simply adjust the subject’s 2007 sale price downward by a fixed percentage, to be contrary to accepted assessment/appraisal practice and without merit.

[29] The Board finds that a percentage increase or decrease in an assessment is not, in and of itself, a valid reason to change an assessment.

[30] The Board finds that the Respondent’s six market sales and seven equity comparables display individual site characteristics (i.e. building size; site coverage; building age; etc) which more closely match each other and the subject, and hence support the assessment of the subject.

[31] The Board finds that the Respondent's six market sales comparables display individual market values ranging from \$140.00 to \$238.90 per SF and that the subject's two buildings fit well within this range at \$140.60 per SF and \$167.71 per SF respectively. This evidence supports the assessment.

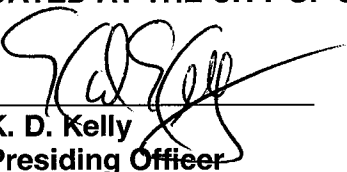
[32] The Board finds that the Complainant supplied insufficient information to demonstrate that the assessment of the subject is incorrect and/or inequitable.

[33] 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 on the basis of the evidence and argument provided at this hearing.

**Board's Decision:**

[34] The assessment is confirmed at \$5,160,000.

DATED AT THE CITY OF CALGARY THIS 21<sup>st</sup> 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. 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 two-building site	Market value	2007 sale of subject