

**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:

Natco Canada Limited (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:	120021407
LOCATION ADDRESS:	9423 Shepard RD SE
HEARING NUMBER:	67896
ASSESSMENT:	\$12,020,000

This complaint was heard on 24th 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. D. Mewha– Altus Group Limited*

Appeared on behalf of the Respondent:

- *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 three-building single-tenant heavy industrial manufacturing complex on 16.39 acres (Ac.) of land on Shepard Road in the Shepard industrial area. The complex is engaged in the manufacturing of large and small equipment for use in oilfield activities. It is assessed using the Cost Approach to Value methodology.

- [4] The main building is 87,811 SF in area and was constructed in 1975. The second building is 13,280 SF and was constructed in 1981. The third building is 4,200 SF and was constructed in 1977, and serves as the office facility for the complex. The site is served by a short rail spur which enters the largest building in the complex. The subject is assessed at \$12,020,000.

- [5] **Issue:**

What is the market value of the subject as a "light industrial" manufacturing facility rather than a "heavy industrial" property, based on the cost approach to value methodology?

- [6] **Complainant's Requested Value:** \$8,010,000.

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

[7] The Complainant argued that the subject has been mis-classified by the City as a heavy industrial property and this factor has erroneously caused its assessment to increase to a value in excess of market value. He argued that compared to several nearby properties which are classified as light industrial properties, most of which are engaged in manufacturing pursuits similar to those on the subject, the subject is over-assessed and this is inequitable.

[8] The Complainant declared that Altus has no dispute with the values applied by the City to the office building portion of the assessment. He argued however that the two manufacturing buildings have been incorrectly classified and assessed.

[9] The Complainant advised that he had personally visited the subject in recent months and took many internal and external photographs of the subject. He confirmed that he had conversed at great length with an authorized representative of the company regarding construction of the subject's various components, in particular noting structural, exterior sheathing; rail spur; and location, use, and type of cranes. He carefully reviewed the photographs he had taken of the subject in deliberate detail, with the Board and Respondent. He also clarified to the best of his knowledge, several of the manufacturing processes occurring in various parts of the buildings.

[10] The Complainant clarified that he had also personally visited and taken many photos of several of the adjacent and nearby properties which the City had classified as "light industrial" and which carried lesser assessed values. He provided a very extensive array of internal and external photographs of these sites as well – comparing them in great detail to the subject. He argued that it is almost impossible to detect any material difference between the structural components and method of construction for those properties -classified as "light industrial" - and the subject, which is classified as "heavy industrial". He noted that the gauge of the metal siding materials for example, is the same in both the subject and the light industrial comparables he visited.

[11] The Complainant provided several matrices containing a total of ten assessment equity industrial property comparables which had been assessed using the Cost Approach to Value like the subject. He noted their respective individual characteristics and assessed values, and argued that they support his request for a lesser assessment for the subject.

[12] The Complainant argued that in 2011 the subject had been assessed using the direct Comparison Approach to Value, but in 2012 the City had switched to a "Costed" approach. The Complainant argued that while the City has relied on certain definitions in the Marshall and Swift costing manual to identify the subject as a "heavy industrial" site, no one from the City has visited the site to confirm these inputs like he did. He established through questioning that the Respondent had not visited the subject, nor could the Respondent confirm that anyone from the City had visited the subject prior to developing the Marshall and Swift valuation calculations for the subject. He argued that it is essential to visit any site to ensure that the inputs to a Marshall and Swift valuation calculation are accurate.

[13] The Complainant argued that the Respondent has not provided any “heavy industrial” property comparables to which the subject may be compared. He also argued that the Respondent has been unable to confirm to the Board the role – if any, that the railway spur line played in either classifying the subject as heavy industrial or in calculating the assessment. He also clarified that at least six of his ten light industrial property comparables are also served by railway spur lines but he was unsure of the other four.

[14] The Complainant argued that the mere presence of a spur line is not proof that an industrial site is a heavy industrial site, since rail lines can be used to bring in large quantities of bulk or packaged materials for manufacturing and processing, as well as the subsequent removal of large volume but lightweight products and materials as needed.

[15] The Complainant also argued that there is no evidence before the Board from the Respondent to confirm the Respondent’s assertions that the floors and walls in the subject were likely reinforced to a heavy industrial strength, as would be required under the Marshall and Swift methodology for heavy industrial applications. He argued that the Respondent, not having visited the site, is merely speculating on the subject’s building components.

[16] The Complainant argued that there is no evidence as alluded to by the Respondent that the railway spur line or the craneways add value, and how much that value would be. He noted that craneways are assessable, but not taxable and the subject has six cranes, all having at least 65 foot spans. He provided data from Marshall and Swift “estimator” documents regarding the inputs required for this component of a Cost Approach calculation of value.

[17] The Complainant argued that even though the subject was valued using the Cost Approach, the Respondent had supplied several market sales to support the value it arrived at for assessment purposes. He argued that the Respondent’s market sales are not comparable to the subject and do not support its assessment. In his rebuttal document C-2 he provided Alberta Datasearch; Altus market sale information sheets, and extensive photographic evidence to support his position. He argued that the City’s comparable at 363 – 58 AV SE for example is predominantly an office complex and not an industrial site. Under questioning the Respondent was unsure of the nature of the site.

[18] The Complainant argued that the City’s comparable at 7007 – 54 ST SE is a multi-bay retail site some 35 years newer than the subject and not an industrial property and therefore is not comparable to the subject. He argued that the Respondent’s comparable at 4880 – 104 ST SE is only three years old and of modern construction using heavy “tip-up” concrete walls whereas the subject is constructed of sheet metal cladding and is 35 years older. He argued it too is not comparable to the subject. He noted that several other City comparables were substantially newer than the subject or were constructed to serve entirely different purposes. He noted that the Respondent advised that one of his comparables was a “Listing” and not a sale at all, and therefore this Respondent property comparable is invalid.

[19] The Complainant summarized that the subject is a light industrial site which is, in all respects, highly similar if not identical to other light industrial sites nearby and adjacent to the subject. He noted that unlike Altus, the Respondent did not provide the Board with the detailed Marshall and Swift calculations which would serve as the critical basis for valuing the subject for assessment purposes.

[20] In addition, the Complainant argued that the City is relying in part on a 2010 "Broker's Opinion of Value" which estimated the subject's value at \$12,000,000, but which is not, as argued by the Respondent, a formal professionally-developed appraisal of the site. He argued that the "opinion" is produced for a different purpose and serves a different valuation role. He argued that little weight, if any, should be accorded this evidence in terms of providing a valuation for assessment purposes.

[21] The Complainant requested that the assessment be reduced to \$8,010,000.

[22] The Respondent argued that the City had assessed the subject using a Direct Comparison Approach in the past, but this year changed to a Cost Approach to Value methodology because he considered that it better represented the value of the subject. He argued that a January 2010 "appraisal" by Avison Young had valued the site at \$12,000,000, and this information coincided with the City's estimate of value for it.

[23] The Respondent argued that the Complainant had provided no building plans to confirm the subject's wall heights, which would add value and would have been an integral part of any Marshall and Swift calculation of value. He argued that the photographs taken by the Complainant of the subject and his comparables, and his personal discussions with the subject's building foreman, are not a meaningful substitute for dimensioned building plans which the Complainant has not produced. He argued that the City would have calculated the subject's value using the building plans for the site although he was unable to confirm that this actually occurred, nor did he supply any building plans himself to support his position.

[24] The Respondent clarified that he considered that the railway spur line into the site and one of its buildings, definitely adds value to the subject, but he was unable to quantify what that value might be. He also suggested that the presence of the spur line would indicate that heavy manufacturing is occurring onsite, which supports the City's classification of the subject as "heavy industrial". The Respondent offered that while the Complainant has argued that at least six of his ten light industrial comparables have spur lines, he was unaware of how many of the light manufacturing properties in the area were so served.

[25] The Respondent noted that while the subject was valued using the Cost Approach to Value, he provided a matrix containing four market sales of properties he considered comparable to the subject. The four sites were at 363 – 58 AV SE; 4949 – 76 AV SE; 4880 – 104 AV SE; and 7007 – 54 ST SE. The Respondent argued that these sales support the assessed value on a per square foot basis.

[26] The Respondent also provided RealNet, Alberta Land Titles documents, and marketing materials to support market values of three additional property comparables – one of which was a "listing". He argued that this additional information also supports the assessment.

[27] The Respondent provided the definitions of "Industrial Heavy Manufacturing" and of "Industrial Light Manufacturing" as gleaned from the Marshall and Swift valuation manual used to assess the subject. He argued that these definitions support classifying the subject as a heavy industrial property and not a light industrial property. However, he acknowledged under questioning from the Complainant that there is no mention in either definition of railway spur lines or cranes being a factor in calculating site values.

[28] The Respondent provided, but did not elaborate upon, two excerpts from Part 8 of the City's "Land Use Bylaw - 1P2007 July 23, 2007" pages 565 to 568 inclusive; and 619 to 624 inclusive. He outlined the "General Rules for Industrial Land Use Districts" in the first excerpt, and the requirements for "Industrial – Heavy (I-H) District" in the second excerpt. However, he did not supply the Land Use Bylaw requirements for light industrial uses.

[29] The Respondent argued that a previous assessment review Board in 2010 concluded in Decision ARB 1230-2010-P (copy provided) that based on the evidence before them at that hearing, the subject appeared to be a heavy manufacturing site. He argued that all of the evidence before the Board today points to the subject being a heavy industrial site and not a light industrial property as argued by the Complainant.

[30] The Respondent requested that the Board confirm the assessment at \$12,020,000.

Board Findings

[31] The Board finds that the Complainant's photographic and related evidence, gathered from his recent personal and in-depth examination of both the subject and his nearby and adjacent property comparables, is firmly convincing evidence that the subject is a light industrial site.

[32] The Board finds that when viewing the Complainant's photographic evidence, the internal and external structural and functional components of the subject appear remarkably similar to – and in fact largely indistinguishable in many respects, from the Complainant's property comparables which are classified by the City as light industrial properties and assessed as such.

[33] The Board finds that the Respondent provided no photographic or other evidence to support the classification and assessment of the subject as a heavy industrial site – nor did the Respondent provide the detailed Marshall and Swift calculation (work) sheets used by the City to identify the inputs used to calculate that assessed value.

[34] The Board finds that, unlike the Complainant, the Respondent has not been to the subject site and is unable to speak to this matter with personal knowledge, nor is he able to confirm whether or not the individual who prepared the Marshall and Swift calculations for the City had visited the site or even inspected the building plans for the subject, prior to preparing the calculations of assessed value for it.

[35] The Board finds that the Complainant provided the details of his Marshall and Swift calculations for the subject in his evidence package, and except for wall heights, the Respondent failed to effectively challenge any of the Complainant's inputs or calculations of alternate value.

[36] The Board finds that the Complainant's calculations of value as a light industrial site using the appropriate light industrial inputs, supports the reduction in value the Complainant is seeking.

[37] The Board finds that while the Respondent argued that the railway spur and large cranes present onsite the subject is strong evidence of a heavy industrial use on the site, and therefore indicative of greater value, the Board is not convinced this is entirely correct. The Board agrees with the Complainant that the presence of these fixtures is not unlike those shown to be present on nearby and adjacent light industrial properties which are assessed at a lesser value because of the light industrial classification placed upon it by the City.

[38] The Board finds that while the Respondent provided the Marshall and Swift definitions for both Light and Heavy industrial properties, he did not provide any heavy industrial property comparables against which the Complainant and/or the Board could compare the subject. Nor could the Respondent confirm as he alleged, that the subject is constructed with a reinforced concrete floor and other appurtenances that would be required of a heavy industrial site.

[39] The Board concurs with the Complainant that based on the evidence in this hearing, the Marshall and Swift (M&S) definitions of heavy and light industrial uses have been improperly interpreted by the Respondent as regards the subject, and hence the M&S inputs used by the City to assess the subject as a heavy industrial property have been improperly applied resulting in an incorrect and inequitable assessment.

[40] The Board concurs with the Complainant that a "Broker's Opinion of Value" as prepared for the subject and advanced by the Respondent as a formal property "appraisal", while quite valuable for certain other purposes, is not definitive evidence of value for assessment purposes under the Mass Appraisal process.

[41] The Board concurs with the Complainant that the subject is incorrectly and inequitably classified and assessed as a heavy industrial site. In addition, the Board finds that the Respondent's market and equity comparables are not comparable to the subject.

[42] The Board finds that the subject was assessed in previous years using the Direct Comparison Approach to Value, however the valuation methodology was changed by the City for 2012 to the Cost Approach to Value. Hence the Respondent's reliance on previous CARB decisions in the current circumstances is unsupported.

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

Board's Decision:

[44] The assessment is reduced to \$8,010,000.

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	Improper classification as heavy industrial