

**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:

BCIMC Realty Corporation (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:	201116993
LOCATION ADDRESS:	7310 – 108 AV SE
HEARING NUMBER:	68121
ASSESSMENT:	\$27,560,000

This complaint was heard on 20th 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. 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 a 226,126 square foot (SF) single-tenant industrial warehouse constructed in 2008 and displaying 4% finish on 25.07 acres (Ac.) of land in the Canals industrial subdivision. The subject is assessed as having 7.766 Ac. of "Extra Land" which is valued at \$4,077,257. The subject is assessed using a typical 30% site coverage, a practice used by the City where a property exhibits low site coverage and extra land. The site is located in the South Foothills (3) industrial area and is assessed at \$27,560,000.

Issue:

[4] What is the market value of the subject based on the Income Approach to Value instead of the Direct Comparison Approach to Value?

[5] **Complainant's Requested Value:** \$24,030,000.

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

[6] The Complainant opened his presentation by outlining the core premise of his presentation and argument as follows:

"As can be seen from the subject's characteristics and the land adjustment information below, the subject is and was originally intended to have 2 buildings on the site, and thus the "additional" land on the site is intended to be entirely utilized by the second building. As it is relatively straightforward to account for the value of the additional land, we look at the assessment (as) if we were to remove that land and use it for its highest potential use, in this specific instance, the intended addition of the second building. This leaves the subject with a site coverage ratio of approx. 60%. We remove the land value for the additional portion and are left with an assessment that reflects the building as if on an 8.65 acre parcel, which can then be compared with other assessments of competing buildings"

NOTE : underlining by the Board

[7] The Complainant proceeded to develop his hypothetical valuation scenarios by assuming the subject has a 60% site coverage instead of the actual 20.71% and the assessed 30% site coverage and was somehow located on its own 8.65 acre parcel, which it is not. He clarified in response to questions that as of December 31, 2011, the subject 25.07 parcel had not been subdivided, although there were always intentions by the owners to do so. He offered extracts of promotional materials to support this point.

[8] The Complainant argued that the recent downturn in the economy halted all plans to subdivide the subject and build a second building on the remnant parcel. He confirmed that to date, no application to the City for subdivision of the subject's 25.07 acre parcel has been made, nor has any Development or Building Permit been applied for to construct a second building onsite as planned.

[9] Therefore, based on his initial hypothetical premise of the subject being located on an 8.65 Ac. parcel and demonstrating a 60% site coverage, the Complainant proceeded to compare a "theoretically revised subject" to other properties exhibiting similar characteristics based on parcel size; age; and year of construction. He provided the Alberta Data Search (ADS) information sheets for several of his property comparables.

[10] The Complainant concluded that based on an analysis of several properties exhibiting characteristics similar to a theoretically-revised subject, a revised value for the subject on an 8.65 Ac. parcel with 60% site coverage would be \$72 per SF or \$16,281,072. The hypothetical remnant of 16.42 Ac. he valued at \$8,115,304 based on the City's \$525,000 per Ac. and reduced in steps by the "diminishing returns" formula identified in the City's assessment policy procedures. He indicated that the revised assessment representing the total of building and land for the subject should therefore be \$24,396,376 or \$24,300,000 rounded.

[11] The Complainant provided a matrix containing three assessment equity comparables which he argued displayed individual site characteristics which mimic and compare favourably to each other and to the subject. The matrix is as follows:

Address	Total NRA (SF)	Land area (Ac)	Site cover %	Bldg. type	AYOC	Finish %	2012 asmt. (\$)	Asmt/SF (\$)
7310 - 108 AV SE	226,126	25.07 Ac.	20.71 (per 25.07 Ac.)	IWS	2008	2.00	27,560,000	122
2015 - 60 ST SE	330,344	31.99	22.78	IWS	2003	4.00	32,650,000	99
11440 - 54 ST SE	212,759	18.53	25.80	IWS	2005	5.00	22,940,000	108
5300 - 86 AV SE	165,347	14.01	27	IWS	1998	8.00	14,240,000	86

[12] The Complainant argued that these three assessment equity comparables demonstrate that the subject is over-assessed when one considers the range of assessed values evident in the above matrix.

[13] The Complainant argued that because of the limited number of large building and large land parcel sales in recent years, the City has used sales data from a host of primarily smaller properties and buildings, adjusting them to a "typical" characteristic in order to compare them to larger properties like the subject. He argued that a number of sales are essentially invalid for a variety of reasons, and he provided four examples. While none of the four are used by the City in this complaint, nevertheless, they are said to demonstrate errors in the City's database and assessment model. He provided copies of RealNet sheets, City business assessment summaries, and related documentation to support this point.

[14] The Complainant argued that because there is a paucity of recent large-parcel and building land sales, current appraisal practice requires that the Income Approach to Value methodology be invoked to value the subject. He provided several excerpts of authoritative literature; rent rolls; and Assessment Review and MGB Board decisions to support his selection of inputs (rent; vacancy; cap rate, etc) to his calculations.

[15] Built around the same assumptions of a theoretically subdivided property, the Complainant proceeded to offer four valuation scenarios using the Income Approach to Value methodology and rent/lease values from the subject, and what was generally described as properties competing directly with the subject for similar tenants. Integral to these valuation scenarios was the \$8,115,304 land value identified in [10] above for the "hypothetical remnant".

[16] The Complainant provided several Calgary Assessment Review Board (CARB) decisions which he argued supported his position in this appeal. The Complainant requested that the assessment be reduced to \$24,030,000.

[17] The Respondent argued that the Complainant's basic premise is flawed because the subject is a 25.07 parcel which has not been, and was not subdivided into two parcels as of December 31, 2011. He argued that the subject has in effect received a minor assessment valuation benefit when the City raised the site coverage of the subject to a typical 30%. He argued that a higher site coverage generally means a lower per square foot value for properties.

[18] The Respondent argued that regardless of the size of the extra land parcel, the basic dollar value applied to the extra land by the City is the same, because it is formulated by an analysis of three years of typical valid market sales and the results are applied to properties in the locale. He argued that this methodology has been used consistently by the City for several years, although the Complainant has been critical of it, arguing that only sales from a two-year time frame should be used.

[19] The Respondent provided and referenced his matrix of four fully-adjusted market sales comparables and identified the similarities of these market sales to each other and the subject. In particular he noted that the four property comparables contained buildings which ranged in size from 139,193 SF to 165,347 SF – the subject being 226,126 SF; were primarily constructed in the same time frame as the subject; and displayed time adjusted sales prices of between \$85.85 per SF and \$123.46 per SF. He argued that the subject – without the extra land adjustment, is assessed at \$103.86 per SF and this value fits well within the aforementioned range of values and supports the assessment.

[20] The Respondent's market sales matrix is as follows:

address	Bldg type	Parcel size - Ac	Assessable bldg area	AYOC	Finish	Site Coverage	Valuation date	Land adjustment	Total	Rate/SF
7310 – 108 AV SE	IWS	25.07	226,126 SF	2008	4%	30%	July 1, 2011	\$4,077,257	\$27,563,430	\$103.86
							Sale date	Sale price	TASP	TASP/SF
4141 – 110 AV SE	IWM	6.27	139,193	2007	49%	50.93%	19 Dec 2008	\$13,600,000	\$11,950,268	\$85.85
10905 – 48 ST SE	IWM	7.56	142,672	2008	39%	43.41%	27 Apr 2010	\$18,300,000	\$17,614,799	\$123.46
11195 – 42 ST SE	IWM	8.55	158,278	2007	10%	42.66%	19 Dec 2008	\$16,400,000	\$14,410,617	\$91.05
5300 – 86 AV SE	IWS	14.01	165,347	1998	8%	27.10%	26 Aug 2008	\$20,000,000	\$16,537,783	\$100.02

[21] The Respondent further argued that for demonstrative purposes he calculated an adjustment to the land area characteristic of each of his four market comparables to bring them all to 25.07 acres like the subject. He clarified that the results increased the time-adjusted selling price of his four market comparables to create a range of values of \$134.63 per SF to \$183.75 per SF. He compared this to the subject's \$121.89 per SF and argued this evidence supports the assessment.

[22] The Respondent provided a second matrix containing three large-building industrial property assessment equity comparables displaying assessed values ranging from \$86.61 per SF and \$107.85 per SF which he argued supports the subject's building at a typical 30% land coverage, at \$103.86 per SF – extra land excluded. The assessable portions of the three building comparables ranged from 188,263 SF to 212,759 SF, to 330,344 SF – the subject is 226,126 SF. The comparable land parcels were 7.7 Ac.; 18.53 Ac.; and 31.99 Ac. respectively. He noted that the level of finish was consistent at 4%, 5%, and 0%, as was the site coverage at 28.73%; 25.80%; and 30% compared to the subject's "typical" 30%.

[23] The Respondent provided a third matrix and critique of each of the Complainant's three property comparables at 2015 – 60 ST SE; 11440 – 54 ST SE; and 5300 – 86 AV SE. (see Complainant's equity matrix at [11] above). He adjusted the land differential for each comparable downwards/upwards to 25.07 Ac. to match the subject. The resultant indicated values ranged from \$87.85 per SF for 2015 – 60 ST SE; \$123.99 per SF for 11440 – 54 ST SE; and \$120.79 per SF for 5300 – 86 AV SE. He compared these values to the subject's \$121.89 per SF and argued this evidence supports the assessment.

[24] The Respondent provided a fourth matrix containing the Complainant's four equity comparables which were used by the latter to calculate hypothetical values for a scenario assuming a 60% site coverage for the subject. The Respondent argued that when these four properties are adjusted to equate to a 25.07 Ac. parcel size like the subject, the values range from \$89.52 per SF to \$133.40 per SF versus the subject's assessed \$121.88 per SF. He argued that this evidence demonstrates that the City's adjustment process "works" and supports the assessment.

[25] The Respondent provided additional evidence critiquing the various inputs (leases, cap rates, etc.) the Complainant used in his income approach to value calculations. In particular, he noted that the Complainant used lease values from leased properties at Calgary International Airport, and argued that these values are not typical of lease values off airport property. Therefore, he argued, the calculated values developed by the Complainant are invalid and inapplicable to the subject which is not on Calgary International Airport property.

[26] The Respondent provided several CARB decisions which he argued supported his position in this appeal. He requested that the Board confirm the assessment.

Board Findings

[27] The Board finds that the Complainant's basic premise in this appeal as stated in [6] above, lacks merit because the Complainant has confirmed that the subject is, and was as of December 31, 2011, a 25.07 Ac. un-subdivided parcel containing one 226,126 SF warehouse improvement.

[28] The Board finds that as of December 31, 2011 the subject was not subdivided into an 8.65 Ac. parcel and a remnant 16.42 Ac. parcel, and therefore the Complainant's hypothetical calculations of alternate value based upon a theoretical subdivision having occurred, are fundamentally flawed.

[29] The Board finds therefore that the following legislation from the "Alberta Municipal Government Act" applies:

"289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation standard set out in the regulations for that property"

[30] The Board finds that the Complainant's calculations of alternate value for the subject using an Income Approach to Value methodology, cannot be applied to the subject because the land value portion of the calculation relies upon a theoretical "subdivision" of the subject into two parcels and invokes unadjusted values from parcels comparable in size to the Complainant's theoretical parcels.

[31] The Board finds that the Complainant's assessment/market equity comparables display individual site characteristics which are dissimilar to the subject but which, when the land size is adjusted by the Respondent, generate values which support the assessment.

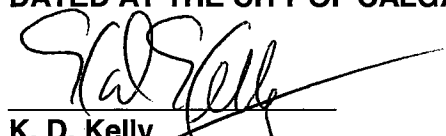
[32] The Board finds that the Respondent's fully-adjusted assessment/market equity comparables display individual site characteristics which are similar to the subject, and the range of values displayed therefrom, support the assessment.

[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 \$27,560,000.

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
3. C-3	Complainant Disclosure – Rebuttal
4. 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	Income Approach to value