

**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:

Ritroy Holdings Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

J. Mathias, MEMBER

A. Zindler, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	200827913
LOCATION ADDRESS:	316 – 40 Avenue N.E.
HEARING NUMBER:	60646
ASSESSMENT:	\$2,170,000

This complaint was heard on 28th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Lynne Leroy*

Appeared on behalf of the Respondent:

- *Kimberly Cody*

Procedural or Jurisdictional Matters:

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board and constituted to hear the matter. No jurisdictional or procedural matters were raised at the onset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is located at 316 – 40 Avenue N.E., in Greenview Industrial Park, west of Edmonton Trail. It is a 0.53 acre parcel with 51.89% site coverage. It is improved with a single storey, cinder block and metal roof building on a 12,000 square foot (ft²) footprint. The building is divided into two 3,000 ft² bays and one 6000 ft² bay and leased to tenants. The building was constructed in 2006, with a 20 foot high ceiling. Except for washrooms, the bays have very modest finishes, with the Assessment Report Explanation Supplement indicating that there was no finish in any of the bays.

The building type is shown as “industrial warehouse multiple tenant”. The assessment is based on a Direct (Sales) Comparison Approach at a rate of \$181.00/ft²

Issues:

1. What is the appropriate approach to use in determining market value of the subject property?
2. What is the appropriate market value of the subject property for assessment purposes?

Complainant's Requested Value:

\$1,600,000

Board's Decision in Respect of Each Matter or Issue:**1. What is the appropriate approach to use in determining market value of the subject property?**

The Complainant provided an appraisal report as her evidence (Exhibit C1). This appraisal report included both a Direct Comparison Approach and Income Approach to value. The value conclusion in this appraisal report relied on both to conclude that the market value of the property as of July 1, 2010 was \$1,600,000. The Complainant presented the appraisal report as evidence, but could not speak to the details of the appraisal. The appraiser who prepared the report was not made available as a witness.

The Respondent stated that the City uses a Direct Comparison Approach to determine the assessment value for industrial warehouse type properties, as there are sufficient sales for such an approach, and it is considered more reliable than an Income Approach when sufficient data is available.

The Respondent indicated that there was no support data to properly understand the lease rates derived from four "lease comparables" used in the Complainant's appraisal report income approach calculation. The Respondent also disputed using a vacancy and collection loss adjustment of 10%. The Respondent provided a 2010 Q2 report done by C.B. Richard Ellis indicating a vacancy rate of 0.5% in the Greenview district and a 2010 Q2 report done by Colliers International indicating a vacancy rate of 1.86% for the Greenview District.

The Respondent also questioned the capitalization rate used in the Complainant's appraisal report. The Respondent presented evidence that showed that four of the six "Income Approach comparables" used in the Complainant's appraisal report were properties that were classified as either office, shopping centre or retail. Only two of the four Income Approach comparables were properties that were multiple tenant warehouse buildings, and of these two, one was built in 1964 and the other was a much larger building on a much larger lot. It was the Respondent's position that none of the Income Approach comparable sales were in fact comparable. Further, it was not clear that the capitalization rate used in the calculation represented the "typical" rate for such properties or whether it was derived from the Income Approach comparables. It was the Respondent's position that the Income Approach was not done properly nor did it reflect the market value of the subject property.

Board's Decision:

The Board considered the Income Approach as presented by the Complainant. The Board concluded that there was not sufficient information presented in the appraisal report to properly understand the rental rate used in the calculation with regard to the adjustment process. There was also some question with regard to the adjustment factors applied in the Income Approach calculation, and that it was not clear how the capitalization rate was derived nor the data used for that derivation. The Board concluded that the Income Approach as presented could not be relied on to indicate the market value of the subject.

The only other evidence presented by either the Complainant or the Respondent was a "sales" approach. Therefore, the Board will use that approach. The issue of which approach is appropriate therefore becomes moot.

2. What is the appropriate market value of the subject for assessment purposes?

Both parties presented evidence involving a "Direct Comparison Approach" also known as a "Sales Comparison Approach", "Direct Sales Comparison Approach" or "Sales Approach". These terms are used interchangeably by the industry and refer to the same approach. Both parties agreed that the subject building was one of the few new buildings in an area where most of the buildings were of 1960's and 1970's vintage. Therefore, there were few real comparable properties in the immediate area.

The Complainant's evidence was an appraisal report that included a Direct Comparison Approach analysis. Eight comparable sales were presented, and summarized on page 24 of the appraisal report (Exhibit C1). Page 24 also indicates that a number of adjustments were made to the raw data, but only a price/ft² range was presented after the adjustments. The adjusted value of each comparable sale was not presented in the report. The appraiser then stated that "....the subject property should command a price per sq. ft. near the median of the adjusted value range, say \$145." This statement is then followed by the value calculation using \$140/ft² to arrive at a value of \$1,680,000.

The Respondent presented evidence (Exhibit R1) that indicated that the appropriate rate/ft² is \$181. To support this value, a table of equity comparables (page 18) and a table of industrial sales comparables (page 19) was presented. The Respondent explained that the assessment model indicates that seven factors influence the assessed value, with the three largest factors being percent site coverage, year of construction, and rentable area (in no particular order of importance). The equity comparables were selected because they were similar to the subject, primarily being newer buildings and in the same general area. The rate per ft² used for assessment purposes ranged from \$159 to \$193. Five industrial sales comparables were presented indicating a time adjusted sales price per square foot of \$171 to \$230. The five industrial sales comparables presented were only a selection of the data used in the assessment model to arrive at an assessed rate per square foot for the subject of \$181. The Respondent did not inspect either the subject or the comparable properties.

The Complainant stated in oral evidence that one of the eight comparable sales presented in the Complainant's evidence (Indicator No. 7: 224-41 Avenue NE) involved a property that was in very poor condition and contained asbestos material, which influenced the price. The Respondent presented evidence to indicate that two of the eight comparables used by the Complainant (Indicator No. 3: 626-36 Avenue NE and Indicator No. 4: Units 1-5, 1404-44 Avenue NE) were non-arm's length, based on "RealNet" Transaction Summary sheets for these properties supported by Corporate Search documents showing directors for the companies involved in those transactions. The Respondent also presented evidence showing that one of the comparables used by the Complainant (Indicator No. 5: 3405-32 Street NE) was a commercial property, not an industrial property. This left four of the eight of the Complainant's comparables.

Of the four direct comparison comparables used by the Complainant that were still considered comparable, and the five industrial sales comparables used by the Respondent, only one was common to both parties. This was a property located at 1936 27 Avenue NE that sold in December 2009 for \$1,765,000.

Board's Decision:

The Board had particular regard to page 24 of the Complainant's evidence (Exhibit C1), and acknowledged that four of the eight comparable sales should not be used for the reasons discussed above. Without a table showing the adjusted values, the Board is not able to consider what the appropriate rate per ft² might be once four of the comparables were dropped. Therefore, the Board found this data and explanation of the analysis wanting.

The Board notes that the discussion and calculation of the value of the subject at the bottom of page 24 indicates a \$145/ft² and \$140/ft² number. It is not clear to the Board if there was a typographic error, or if there was some logic to concluding a rate of \$145/ft² and then using a rate of \$140/ft² in the calculation.

The Respondent provided some evidence to show that the assessed value, based on a rate per ft² of the building footprint of \$181 was consistent with comparable sales and equity comparables. However, the Board found the Respondent's explanation of how the data is used by the assessment model somewhat confusing.

The Board considered the valid comparable sales provided by both parties, and recognizes the lack of comparable sales in the specific market area. Only one comparable sale was common to both parties, being the property located at 1936 27 Avenue NE. However, the Board notes that the Complainant indicated the building size for this property as 13,600 ft², while the Respondent indicated the building size for this same property as 10,322 ft². This size difference makes a substantial difference when calculating the rate per ft². The Board has no evidence to determine which, if either, of these building sizes is correct so cannot rely on this sale.

The remaining comparable sales are all different from the subject in various ways. The Board was not able to confidently rely upon these sales to indicate an appropriate value range for the subject.

After due consideration, the Board finds that it does not have sufficient evidence to vary the assessed value.

Board's Decision:

The Board confirms the assessed value of \$2,170,000.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF AUGUST 2011.



Ivan Weleschuk
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.*