

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a 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:

***Copez Properties Ltd. and Great Elephant and Rabbit Trading Company Ltd.
c/o Tonko Realty Advisors Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Krysa, PRESIDING OFFICER
D. Pollard, MEMBER
D. Julien, 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:	096023890
LOCATION ADDRESS:	5452 53 Ave SE
HEARING NUMBER:	62885
ASSESSMENT:	\$8,180,000

The complaint was heard on August 11-12, 2011, in Boardroom 1 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- D. Mewha

Appeared on behalf of the Respondent:

- J. Young

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

This matter was heard in conjunction with several other matters during the week of August 8 to 12, 2011. By agreement, the parties submitted evidence and argument with respect to the merits of the Complainant's income approach methodology, involving the Complainant's exhibits: C2a, C2b, C3, C5, C6, and C7, at an earlier hearing of File 64531, (CARB 1740/2011-P). It was agreed that the evidence and argument of both parties would be applicable to the remainder of the matters scheduled, including the subject property of this decision.

Board's Decision: The Board agreed to hear the applicable evidence and argument from both parties during the hearing of file 64531, and consider that evidence and argument in the context of each of the remainder of the matters heard, including the subject property of this decision.

Property Description:

The subject property is a 4.06 acre parcel of land, improved with a 70,149 sq.ft. single tenanted industrial warehouse structure, constructed in 1997, with a building to land ratio of 39.66%.

Issues:

The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment
4. an assessment class

The Complainant did not pursue matter #4, and led evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out 11 grounds for the complaints in section 5 of the complaint forms, with a requested assessment of \$6,060,000; however, at the hearing only the following issues were in dispute:

- Issue 1. The income approach to value is the most appropriate valuation method for the subject property.
- Issue 2. The direct sales comparison approach to value supports an assessment reduction.
- Issue 3. The assessment of the subject is inequitable with the assessments of similar properties.

Complainant's Requested Value:

The Complainant requested an assessment value of \$6,660,000.

Board's Decision in Respect of the Issues

Issue 1. The income approach to value is the most appropriate valuation method for the subject property.

The Complainant argued that the Sales Approach (Direct Sales Comparison Approach) model employed by the assessor is not an appropriate approach to value due to recent market volatility within the municipality. The recent downturn in the economy has limited the number of recent sales transactions to a level that is insufficient for MRA (Multiple Regression Analysis), and the dated sales from late 2007 and early 2008 occurred in a rising market, and are not reflective of market conditions as of the valuation date. The Complainant further argued that the assessor's time adjustments to these dated sales are inaccurate, and do not reflect the market value of the properties as at July 1, 2010, the valuation date for this assessment. Further, the Complainant argued that the assessor has ignored the impact of leasehold interest on sale prices, and has erroneously assumed that the sale price is reflective of the fee simple estate of the property in every instance, without regard for leases in place with rents above or below "market" rates.

In support of these arguments, the Complainant provided several excerpts from the Valuation Guide (Market Value and Mass Appraisal for Property Assessment in Alberta) as set out below:

[C2a, pp. 4-6]

Re: Direct Sales Approach Methodology

"It works well when there are sufficient numbers of recent comparable sales transactions to identify value patterns in the market and properties are similar in nature and can be easily compared, e.g. single family homes."

"The different attributes of the comparable sales may require significant adjustments in order to form points of comparison and the basis of valuation for the subject. If sales data is limited, it also becomes difficult to establish appropriate benchmarks to estimate values for similar properties."

"Economic conditions such as deflationary or inflationary cycles and the availability of financing at the time of a comparable sales transaction, further limit the reliability of the market sales comparison approach as a method of valuation."

"There may be sufficient sales data for some classes of warehouses and not for others, or the sales data may not "explain" the value of certain elements. Where there is insufficient sales data, another valuation approach should be used."

The Complainant submitted an analysis of the sales employed in the assessor's MRA to demonstrate that of the total 154 sales, approximately 2/3 (98) occurred more than 18 months prior to the valuation date in what, was argued, was an unquestionably a different market cycle. Further, the analysis demonstrated that recent sales were not equally distributed across various size ranges, with significantly limited sales of properties greater than 50,000 sq.ft., occurring within 18 months of the valuation date, as detailed below:

[C2a, p.7]

Size Range sq.ft.	Sale Period July 2007 - Jun 2010	Sale Period Jan 2009 - Jun 2010	Sale Period Jan 2010 - Jun 2010
Up to 2,500	5	3	1
2,501 - 10,000	45	17	6
10,001 - 25,000	48	20	9
25,001 - 50,000	27	10	3
50,001 - 100,000	14	2	0
100,001 - 250,000	14	3	2
250,001 +	1	1	0
Total Sales	154	56	21

The Complainant argued that the above distribution of sales confirm that there were insufficient recent sales of properties greater than 50,000 sq.ft in area for an MRA to accurately predict coefficients for the variables identified by the assessor. In support of the argument, the Complainant included a number of CARB decisions from 2010, wherein the Board agreed that there may have been insufficient sales of large industrial properties to employ the Sales Approach. The Complainant submits that for the current valuation date, there are now even fewer sales of large properties than there were for the 2010 taxation year. [C2a, pp. 10-11]

With respect to the assessor's time adjustments applied to 2007 and 2008 sales, the Complainant argued that changes in capitalization rates over the same time period demonstrate that the assessor's time adjustments are not reflective of the actual changes in the marketplace. In support of the argument, the Complainant submitted a capitalization rate analysis of seventeen industrial properties greater than 100,000 sq.ft in area. The sales transpired between Dec 2006 and May 2010 and illustrate the trend in capitalization rates over the same time period. The Complainant further calculated a time adjusted sale price for each sale by capitalizing the stabilized income of each tenanted property by the typical capitalization rate evident from recent sales. This calculation illustrated that the time adjusted sale prices of the dated sales in the Respondent's MRA, were 12.14% to 27.11% lower than the Respondent's conclusions, considering only current capitalization rates. The Complainant argued that the appropriate time adjusted sale prices would be even lower if an adjustment to current market rents was properly included. [C2a, p.29]

The Complainant further argued that the Respondent's predicted market value assessments of industrial properties were not reflective of the fee simple approach, as the sale prices may have been impacted by existing leases, but no adjustments were made for leasehold interests prior to being included as market indicators in the MRA. In support of that argument, the Complainant referred the Board to incomes achieved by some of the Respondent's higher valued sales.

In support of the income approach methodology, the Complainant provided several excerpts from the Valuation Guide, as set out below: [C2a, pp. 4-6]

"The valuation technique commonly used by assessors across Canada is based on the *direct capitalization method*, which is widely accepted as a mass appraisal technique and applies under existing jurisprudence."

"With appropriate financial information the income approach makes it possible to estimate market values quickly and easily for large and reasonably complex income producing properties. Furthermore the approach adjusts readily to changing market conditions. For income producing properties, the income approach is well accepted by the marketplace and by the courts."

The Complainant also argued that the capitalization rate methodology employed, is identical to that employed by the Respondent several years ago when the industrial inventory was assessed via the income approach. In support of this, the Complainant submitted an excerpt from the Respondent's submission to the Municipal Government Board in respect of a 2005 appeal, which sets out the following: [C2a, pp.14-16]

"The City agrees that for the sale of properties and the calculation of the capitalization rate, the actual income as opposed to the typical assessed income (based on the median rental rate of a similar group of properties) should be used. However, the actual income must still be adjusted for vacancy and non-recoverable expenses due to the regulation of mass appraisal. It is this adjusted actual income that must be used in the calculation of the capitalization rates because the capitalization rates will be applied to typical incomes that have been adjusted by 9%."

In establishing a capitalization rate conclusion, the Complainant submitted a summary of eight industrial property sales that transferred between April 2009 and April 2010, exhibiting a range of capitalization rates from 7.39% to 9.53%, and a median rate of 7.96%. The Complainant submitted that, as the data illustrated that the sales exhibiting higher capitalization rates were associated with older properties, the sales were stratified by improvement "age" to arrive at the following capitalization rate conclusions: [C2a, p.19]

Year of Construction	Capitalization Rate Range	Capitalization Rate Conclusion
1994 and older	7.96% - 9.53%	8.25%
1995 and newer	7.39% - 7.78%	7.75%

In the calculation of the capitalization rates, and the application thereof, the Complainant applied a 5% allowance for vacancy and non-recoverable expenses, and argued that this allowance was appropriate as it reflected city wide long term vacancy levels, and was supported by third party market publications. [C2a, pp.17, 236-245]

In support of the rent rate conclusion of \$7.75 per sq.ft., the Complainant submitted a summary of five leases, of areas ranging from 51,492 sq.ft. to 91,894 sq.ft., commencing from December 2007 to February 2011, and exhibiting rental rates ranging from \$7.05 to \$9.55 per sq.ft., and a median rent rate of \$7.75 per sq.ft. [C1, p.14]

The rental rate of \$7.05 was of a December 2007 lease within the subject property, as indicated in the subject's rent roll. [C1,p.15]

The Complainant set out an income approach valuation calculation for the subject, as follows:

Building Area (sq.ft.)	Market Rent	Vacancy and Non-Recoverable	Capitalization Rate	Market Value	Market Value per sq.ft.
70,149	\$ 7.75	5%	7.75%	\$ 6,664,155	\$ 95

[C1, p.17]

The Complainant provided a further income approach valuation calculation for the subject property based on the current \$7.05 per sq.ft. contract rent in place, to arrive at a value of \$6,062,231, equating to \$86 per sq.ft. [C1, p.17]

As a test, the Complainant submitted a calculation to determine the rental rates required to support the current assessment, with a 5% vacancy allowance and at a 7.75% capitalization rate. The Complainant demonstrated that the rent rate required to support the current assessment is \$9.51 per sq.ft. in contrast to the \$7.75 per sq.ft. median rate of the lease comparables on page 14, and the subject's \$7.05 per sq.ft. contract rent in place. [C1, p.17]

The Complainant also submitted the municipality's business assessment summary report to demonstrate that the estimated net annual rental value conclusion employed for business taxation purposes was \$5.50 per sq.ft. in contrast to the effective \$9.51 per sq.ft. required to support the property assessment with a 5% vacancy allowance and at a 7.75% capitalization rate. [C1, p.31]

The Respondent argued that the Direct Sales Comparison Approach is the most appropriate valuation method for the subject property as there are a sufficient number of sales over the 36 month period preceding the valuation date. The Respondent argued that as the subject property is owner occupied the income approach should not be employed, and further, could not be employed as +/-50% of the properties sold were owner-occupied properties where the income potential was not the prime consideration in the determination of the sale price. The Respondent also argued that an income approach valuation would not be in the "spirit" of mass appraisal with respect to the legislated requirements relating to typical market conditions and fee simple estate. The Respondent submitted that the assessor had, in the past, relied on the Income Approach to value industrial properties; however, as a result of an abundance of comparable property sales in recent years, the assessment of the municipality's inventory of industrial properties has been prepared via the Direct Sales Approach since 2007. The Respondent argued that although the number of recent sales has declined, the time adjusted dated sales still provide ample market data from which to establish accurate market value predictions for the industrial inventory.

In response to the Complainant's capitalization rate analysis and conclusions, the Respondent argued that the Complainant's eight sales were insufficient to establish a valid capitalization rate conclusion, and that an analysis of all 56 sales from January 1, 2009 to June 30, 2010 should have been undertaken. With respect to the capitalization rate conclusion, the Respondent submitted a third party market report setting out a range of industrial capitalization rates from 6.75% to 7.25%. [R1, p.139]

The Respondent further argued that the issue has been decided by the Calgary Assessment Review Board in some thirty three, 2011 decisions relating to industrial properties [R2]. The Respondent provided ten 2011 decisions, and three 2010 decisions of the Assessment Review Board, and an MGB decision relating to various areas of dispute including the sufficiency of sales for the sales approach, site specific valuation issues, leased fee estate issues, lease date issues, assessment : sales ratio issues, and cost issues. [R1, pp.15-129]

In rebuttal, the Complainant argued that the Assessment Review Board has not rejected the Complainant's capitalization rate analysis, as argued by the Respondent, but has in some instances relied on it, and in other, earlier instances commented on shortcomings in evidence and or argument; shortcomings that have been addressed at this hearing. The Complainant further submitted that, notwithstanding previous board decisions, a Board is not bound by the decisions of another Board, and each Board must weigh the evidence and argument before it.

The Respondent did not provide any direct market evidence to refute the Complainant's income approach valuation; however the Respondent prepared five income valuations, relying on the Complainant's income approach coefficients of \$7.75 per sq.ft. net rent, 5% vacancy, and at a 7.75% capitalization rate. The resultant estimates of market value were compared to the time adjusted sale prices in evidence from both parties and detailed in Issue 2 of this decision, in the form of a ratio where 1.00 reflects an estimate of market value that equals the sale price of the property. The ratios evident from this analysis were 0.59, 0.82, 1.01, 0.95, and 1.07 (corrected to 1.00), with an overall median of 0.95. The Respondent argued that the analysis demonstrates that the Complainant's coefficients result in estimates below market value.

In rebuttal, the Complainant argued that the Respondent's analysis was misleading and troubling, as the Respondent's own assessments suggest varying rent rates per sq.ft. amongst the sample properties. The Complainant argued that it was never suggested that the \$7.75 per sq.ft. rent rate conclusion for the subject would be appropriate for all other industrial properties, as the lease rate is the variable that reflects the attributes of each particular property. Further, the properties are not assessed at the same rate per sq.ft., nor did they sell for the same rate per sq.ft.; therefore, it makes no sense to apply the same rent rate per sq.ft. to properties with different attributes. In support of that argument, the Complainant submitted an expanded analysis of the Respondent's comparison, to demonstrate that the rent rates required to support the current assessments of the property range from \$7.07 to \$9.74 per sq.ft. The analysis further included a summary of the current 2011 "assessment to sale ratios" demonstrating the following ratios: .811, 1.115, 1.118, 1.160, and 1.081. The Complainant argued that with one exception, all of the properties were assessed from 8.1% to 16.0% higher than the Respondent's own time adjusted sale prices, which themselves are in dispute with no supporting evidence from the Respondent.

Decision: Issue 1

The Board finds that the income approach to value is the most appropriate valuation method for the subject property in this instance.

The Board finds that the Complainant's capitalization rate analysis is a valid indicator of the Calgary industrial market as it relates to the subject property. It is appropriately established, and reasonably well supported with documentary evidence of rents in place at the time of sale, as well as documentary evidence of recent sales transactions.

The Board finds that the sample size of eight sales is sufficient to establish a capitalization rate applicable to the subject property. The eight sales occurred within 15 months of the valuation date, and represent 14%, (8/56) of the sales that occurred in the 18 months preceding the valuation date. Further, excluding the Respondent's estimated +/-50% owner-occupied sales for which no income data would be available, the Complainant's capitalization rate analysis represents 29%, (8/28) of the sales with available corresponding income data, equivalent to one, out of every three and one half sales. Although the Respondent argued that the remaining (unanalyzed) sales may exhibit lower capitalization rates, the Respondent failed to submit any evidence in support of that argument.

The Board accepts the Complainant's methodology in deriving capitalization rates, by using actual lease rates in place at the time of sale; and market lease rates applied to current and upcoming vacant space. The Board accepts that this methodology mirrors the motivations of

participants in the income property market, and is supported by assessment theory as set out in the Valuation Guide, and included at C1, page 26. The Board further accepts the Complainant's methodology of adjusting the potential gross income, by the same allowances that are applied to the potential gross income, when the capitalization rate is applied. Notwithstanding the Respondent's argument that this methodology is flawed and unreliable, the Board was persuaded by the Complainant's evidence at page 14 of C2a, and quoted in this decision at page 5 above, that this methodology is essentially identical to that employed by the Respondent in prior years, when industrial assessments were prepared by means of the income approach.

Although the Board accepts the Complainant's methodology in deriving capitalization rates, the Board notes that the best capitalization rate evidence is from properties with actual rents, at or near "market" rents. In the matter before the Board, there was no evidence provided to refute the Complainant's position that the actual rents in place at the time of the sales, were at or near market rent levels.

The Board agrees that the Complainant's stratification of capitalization rates is subjective and arbitrary; however, the Board accepts that there may be a general capitalization rate demarcation between older and newer improvements, which is supported in that the capitalization rate ranges do not overlap between the groups. As there was no evidence from the Respondent to refute the Complainant's conclusions, the Board accepts the Complainant's demarcation criteria as reasonable, in this instance.

The Board finds that the Respondent's time adjusted sale prices are not valid market indicators. The Board was persuaded that the Complainant's "Long Term Capitalization Rate Trending Comparison" analysis is compelling evidence of insufficient downward time adjustments to the Respondent's sales. Although the Respondent argued that the time adjusted sale prices were appropriate, the Respondent failed to provide any evidence or analysis in support of the -6% time adjustment for the 12 month period from July 1, 2008 to June 30, 2009; and the 0% time adjustment for the periods prior to July 1, 2008, and after June 30, 2009. The Board finds the Respondent's precise dates and consistent rate of market change are simply too arbitrary, and do not reflect typical market behaviour.

With respect to the Respondent's sales approach, the Board finds that there may be insufficient sales from which to establish market values of large industrial properties by means of MRA. Notwithstanding the Board's finding with respect to time adjusted sale prices for the majority of the Respondent's sales, the Board notes that there are only 29 sales of industrial properties greater than 50,000 sq.ft., which the Board finds is an insufficient number of observations from which to determine coefficients for seven variables in an MRA. As there are only six sales of industrial properties greater than 50,000 sq.ft in size which occurred in the 18 month period preceding the valuation date, and in light of the above finding with respect to the Respondent's time adjusted sale prices, the Board places little weight on the Respondent's MRA model predicted assessment value.

The Board also notes that there was no evidence in support of the Respondent's argument that the income approach was not a viable option for industrial properties, as +/-50% of the sales were owner-occupied properties where the income potential was not the prime consideration in the determination of the sale price. The Board notes that occupancy of the properties is not an attribute in the model, as owner occupied properties are stratified along with single tenant properties, which may include more than one tenant and are income generating.

The Board was also confused by the Respondent's argument that a valuation by means of the income approach would not be in the spirit of mass appraisal, as the Board is aware that the majority of other income producing properties are prepared by the income approach, and further, as indicated by the Respondent, as recently as 2007 the municipality relied on the income approach to value industrial properties.

With respect to the previous decisions of the Assessment Review Board submitted by the Respondent in C1, the Board notes that although the Respondent argued that the issues were the same as the issues in the current matter, the Board notes that six of the matters were complaints regarding retail properties and one was a suburban office, which would have had entirely different evidence than what is before the Board in this industrial property complaint. Further, two of the decisions were regarding cost applications only. Of the remaining five decisions which relate to industrial properties, the Complainant's cross examination demonstrated that previous Board's have not "dismissed" the Complainant's capitalization rate analysis as argued by the Respondent. For example, CARB 1014/2011-P states, "The Board finds that the valuation based on the revised income calculations, together with the sales considered to be the most comparable, indicates a value of \$2,990,000.", and in CARB 1116/2011-P, the Board merely states the Complainant's income approach was not relied on, as the Board in that instance, found that there was sufficient sales evidence available.

The Respondent further argued that the Complainant's income approach has been consistently dismissed by previous Boards in the decisions submitted in R3. However, that position is based on the Respondent's interpretation of the decisions, and it is not an interpretation shared by the Complainant, or the Board. Without a review of all of the evidence before the Board in each of the matters, the Board cannot make a finding in this regard, nor should it. Although decisions of the Board relating to matters with similar evidence and argument may be persuasive, they are not binding on a Board. This Board will not ignore evidence before it, and merely adopt decisions of other Boards that have heard similar matters, because to do so, would breach the principles of administrative law and natural justice.

In cross examination, the Respondent conceded that the Complainant's evidence refuting the Respondent's time adjustments [C2a, p.29], was not in direct evidence before the Board in any of the decisions in R3. As this evidence serves to discredit the majority of the Respondent's sales (from 2007 and 2008), it supports the Complainant's position that there are insufficient reliable sales from which to rely on for a direct sales comparison approach MRA model, and differentiates this matter from the earlier decisions of the Board on the similar issue.

The Respondent further conceded that sale prices were not adjusted to remove the value of leasehold interests because Land Title Certificates indicate it is the fee simple estate that is transferred. The Board agrees that the transfers are of the fee simple estate; however, the sale price may not reflect the value of the fee simple estate if it is impacted by existing leases, at rents other than at market levels

The Board did not find the Complainant's median lease rate of \$7.75 per sq.ft., compelling evidence of market rent. This lease rate was derived from three leases commencing 24 to 30 months prior to the valuation date, and one lease commencing 7 months after the valuation date. The Board does however, find the most recent (January 2009) lease of 7007 54 St SE, with a 42.51% building to land ratio, is the best comparable for the subject property in evidence, at a rent rate of \$8.50 per sq.ft.

Issue 2. The direct sales comparison approach to value supports an assessment reduction

The Complainant argued that sales of single-tenanted industrial properties subsequent to January 2009 demonstrate that the subject's assessment, at \$117 per sq.ft. is in excess of its market value. In support of the argument, the Complainant submitted two sales of single-tenanted industrial properties, exhibiting sale prices of \$89 and \$127 per sq.ft. as set out below:

Address	Site Cov	Built	Tenancy	Area (sq.ft.)	Sale Date	Sale Price	Sale Price /sq.ft.
2729 48 Ave SE	22%	1999	Single	71,742	Jun-09	\$ 9,100,000	\$ 127
3716 64 Ave SE	32%	1980	Single	56,000	Jul-09	\$ 4,975,000	\$ 89

[C1, p.12]

In cross examination the Complainant conceded that 3716 64 Ave SE would likely exhibit a different rent rate and capitalization rate than the subject, and therefore it was somewhat inferior to the subject. The Complainant further conceded that the sale of 2729 48 St SE was the best comparable to the subject; however, it was argued that the sale price would require a downward adjustment, as the property was superior to the subject as a result of parcel size, and the value of cranes and crane ways included in the sale price.

The Respondent argued that the assessment at \$117 per sq.ft. is appropriate, and is well supported by sales evidence. In support of that argument, the Respondent submitted four sales of industrial properties, exhibiting time adjusted sale prices ranging from \$94 to \$170 per sq.ft., and a median rate of \$114 per sq.ft. as set out below:

[R1, p.122]

Sale Date	Address	Acres	Site Cov	Built	% Finish	Area (sq.ft.)	Sale Price	*TASP	TASP /sq.ft.
Sep-08	2255 22 St NE	5.76	24.3%	1997	23%	61,032	\$10,860,054	\$10,381,012	\$ 170
Jun-09	2729 48 Ave SE	7.36	21.5%	1999	8%	71,742	\$ 9,100,000	\$ 9,100,000	\$ 127
Sep-08	2305 22 St NE	3.72	51.3%	1998	9%	83,107	\$ 8,205,260	\$ 7,843,323	\$ 94
May-08	6875 9 St NE	6.3%	34.9%	1997	16%	95,405	\$10,150,000	\$ 9,557,471	\$ 100
Median									\$ 114

*TASP (Time Adjusted Sale Price)

In cross examination, the Respondent conceded that a NE location was slightly superior to the subject's SE location, and in his opinion, would represent a \$1 to \$2 per sq.ft. premium in value. The Respondent further agreed that the sale of 2729 48 Ave SE, was the best comparable to the subject, with only an adjustment for land required. With respect to cranes and crane ways included in the sale of 2729 48 Ave SE, the Respondent submitted that in his opinion, there was minimal value attributed to such improvements in a sale. The Respondent conceded that no adjustment was made to the sale prices of properties that included cranes and crane ways in the MRA, as it was difficult to measure their contributory value.

In rebuttal, the Complainant argued that the Respondent's sales from \$94 to \$170 per sq.ft. do not "support" the assessment of the subject property as the majority of industrial properties would be valued at some point, within such a wide range of values. Further, there are no adjustments made to reflect the comparables' NE locations, the varying levels of site coverage,

and other differing physical characteristics. The Complainant also argued that with the exception of the sale of 2729 48 Ave SE, all are 2008 sales that require time adjustment and the only evidence in respect of time adjustments is from the Complainant, refuting the Respondent's methodology. Further, the Complainant argued that notwithstanding a land size adjustment, 2729 48 Ave SE remains superior to the subject property as the sale included cranes and crane ways which would inflate the sale price beyond that of a typical warehouse.

The Complainant also argued that the Respondent's sales at 2255 and 2305 22 St NE were part of a portfolio sale of properties, and as such were not valid indicators of market value. In support of that argument, the Complainant submitted a RealNet document detailing the particulars of the sale, and an aggregate sale price of \$127 per sq.ft., in contrast to the Respondent's evidence reflecting sale prices of \$170 and \$94 per sq.ft., time adjusted.

The Respondent submitted that as the "portfolio" sale was brokered, it was appropriate to rely on the transaction as a valid market indicator.

Decision: Issue 2

The Board finds the direct sales comparison approach supports an assessment reduction.

The Board accepts that the June 2009 sale of 2729 48 Ave SE at \$127 per sq.ft., common to both parties' evidence, is the best comparable for the subject property, and finds that the rate of \$127 per sq.ft. requires, at minimum, a downward adjustment to reflect the subject's smaller parcel size.

The Board did not find the Complainant's sale of 3716 64 Ave SE at \$89 per sq.ft. to be compelling evidence of market value for the subject property, as the Complainant conceded this property is inferior to the subject property, and no adjustments were provided.

The Board also did not find the Respondent's remaining sales supportive of the subject's assessment, as the wide range of sale prices from \$94 to \$170 per sq.ft. illustrate that the properties are dissimilar amongst themselves; therefore they cannot each be a valid comparable for the subject property without adjustment. Further, the sales are located in the NE quadrant of the municipality which the Complainant conceded was a superior location, however no market evidence was provided to support the Respondent's opinion that the premium for this attribute would be \$1 to \$2 per sq.ft. The Board also finds that the sales transacted in 2008 are refuted with respect to the Respondent's time adjustment formula. The Board is further persuaded by the Complainant's rebuttal evidence that indicates the sale of 2255 and 2305 22 St NE is part of a "portfolio" sale of 5 industrial properties at an overall sale price of \$127 per sq.ft., in contrast to the \$170 and \$94 per sq.ft. (time adjusted) evidence of the Respondent, which was not supported by any documentary evidence.

With respect to the sale of 2729 48 Ave SE at \$127 per sq.ft., conceded by both parties to be the best comparable with at minimum, a land size adjustment, the Board finds that an adjustment to relate the parcel size to that of the subject provides the following market indication:

	Acres	Land Rate	Sale Price	Improvement Area	Adjusted Sale Price per sq.ft.
2729 48 St SE	7.36		\$ 9,100,000		
Subject	<u>4.06</u>				
Land Adjustment	3.30	x \$525,000	<u>\$ 1,732,500</u>		
			\$ 7,367,500	71,742	\$ 102.69

The adjusted rate of \$102.69 per sq.ft., applied to the subject's 70,149 sq.ft. improvement area, provides an estimate of market value of \$7,203,600 for the subject property, in contrast to the current 2011 assessment of \$8,180,000, equating to \$117 per sq.ft., demonstrating that an assessment reduction is warranted.

Issue 3. The assessment of the subject is inequitable with assessments of similar properties.

The Complainant argued that the assessment of the subject property was inequitable to other industrial properties. In support of the argument, the Complainant provided the assessment attributes of three, single-tenanted SE industrial properties ranging in size from 69,320 to 99,615 sq.ft. The properties are assessed at rates ranging from \$93 to \$103 per sq.ft., with a median rate of \$98 per sq.ft., in contrast to the subject property at \$117 per sq.ft. [C1, p.13]

The Respondent provided the assessment attributes of seven, single tenanted SE industrial properties ranging in size from 58,559 sq.ft. to 82,600 sq.ft. The properties are assessed at rates ranging from \$93 to \$137 per sq.ft., in contrast to the subject property's assessment at \$117 per sq.ft. [R1, p.138]

Decision: Issue 3

The Board finds that there was insufficient evidence to conclude that the subject is, or is not equitably assessed in relation to the assessments of similar properties.

The Board was not persuaded by the Complainant's evidence of comparable assessments ranging from \$93 to \$103 per sq.ft., as the properties have significantly varying physical characteristics (e.g. site coverage range from 29.7% to 53.9%, "finish" ranges from 1% to 18.27%), and no adjustments were made to relate these comparables to the attributes of the subject property.

The Board also was not persuaded by the Respondent's five (remaining) equity comparables ranging of \$93 to \$137 per sq.ft., which at first glance, support the subject's assessment rate of \$117 per sq.ft. The Board notes that these properties also have significantly varying physical characteristics (e.g. parcel sizes range from 2.6 to 5.06 acres, and site coverage ranges from 32% to 52%, and "finish" ranges from 1% to 37%), and no adjustments were made to relate these comparables to the attributes of the subject property.

Without any adjustments in evidence from either party, the samples of dissimilar properties, assessed at dissimilar rates per sq.ft. are not compelling evidence of equity, or an inequity in assessments.

Board's Decision:

The assessment is **revised** from: \$8,180,000 to: **\$7,300,000.**

The Board accepts the Complainant's income approach valuation, with the exception of the net rent rate of \$7.75 per sq.ft., for the reasons set out in the Board's decision at issue 1. The Board finds that a net rent rate of \$8.50 per sq.ft. is the best evidence before the Board, resulting in a market value estimate of \$7,309,073, equating to \$104 per sq.ft. of improvement area, as set out below:

Building Area (sq.ft.)	Market Rent	Vacancy and Non-Recoverable	Capitalization Rate	Market Value	Market Value per sq.ft.
70,149	\$ 8.50	5%	7.75%	\$ 7,309,073	\$ 104

This estimate of market value is corroborated by the sale of 2729 48 St SE, conceded by both parties to be the best comparable with at minimum, a land size adjustment, resulting in a market indication of \$102.69 per sq.ft., and a market value estimate of \$7,203,600.

DATED AT THE CITY OF CALGARY THIS

9

DAY OF NOVEMBER, 2011.



J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
C1	Complainant's Submission
C2a	Capitalization Rate Submission (Part 1)
C2b	Capitalization Rate Submission (Part 2)
C3	Rebuttal Evidence (1)
C4	Rebuttal Evidence (2)
C5	Nova Scotia (Director of Assessment) v. Van Driel
C6	MGB DL 025/05
C7	MGB 149/08
C8	CARB 0662/2010-P
C9	CARB 12922011-P
C10	CARB 14952011-P
R1	Respondent's Submission
R2	CARB 1540/2011-P
R3	Assessment Review Board Decisions (33)
R4	CARB 1681/2011-P
R5	CARB 1824/2011-P
R6	CARB 1810/2011-P

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.

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Single Tenant	Income v. Sales Approach	Capitalization Rate Net Rent Rate