

**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:

***HAN-DY INVESTMENTS LTD., COMPLAINANT
(Represented by Assessment Advisory Group)***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. COLGATE
Board Member M. PETERS
Board Member A. ZINDLER***

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: 116011800

LOCATION ADDRESS: 7507 40 STREET SE

HEARING NUMBER: 63560

ASSESSMENT: \$1,670,000

This complaint was heard on 10th day of August, 2011 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:

- *Mathew Wong – Assessment Advisory Group - Representing Han-Dy Investments Ltd.*

Appeared on behalf of the Respondent:

- *Rob Ford – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

The subject is a single tenant, industrial warehouse located on a 1.0 acre parcel in the Foothills Industrial Park. The structure has a footprint area of 8,968 square feet for site coverage of 20.57%. The assessable building area is 8,968 square feet constructed in 1980. The Land Use designation is Industrial – General.

Issue:

The assessed value is not reflective of the property's market value
The assessment is incorrect assessed based upon an analysis of adjusted sales.

Complainant's Requested Value: \$1,150,000.

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

Complainant's Evidence:

The Complainant provided the Board with a copy of the 2011 Property Assessment, The City of Calgary Assessment Summary Report, maps and photographs of the subject property.

Three sale comparables were provided to the Board in support of the Complainant's requested assessment change. The properties were located at 4415 64 Avenue SE (Comparable 1), 3528 80 Avenue SE (Comparable 2) and 6111 36 Street SE (Comparable 3). All comparables are located in the Foothills Industrial Park.

The analysis (Page 34 of C1) determines a revised square foot rate for each property. Comparable 1 is adjusted by a total percentage adjustment of +10% for the difference in site coverage. Comparable 2 is adjusted by a total percentage adjustment +20 %, site coverage at +10%, building size at +5% and year of construction at +5%. Comparable 3 was adjusted by a total percentage adjustment of +10% for site coverage. Based upon the analysis the Complainant is requesting a rate per square foot of \$122.00 for a revised assessment of \$1,152,039 (9452 square feet X 122.00), rounded to \$1,150,000.

The evidence submitted by the Complainant identifies the subject property having a 'C' quality classification, while Comparable 1 and 2 classified as 'C' quality structure and Comparables 3 is classified as 'B' quality structure.

Additional evidence submitted by the Complainant included an outline of the AAG Valuation Methodology, which the Complainant referred in questioning, from the Warehouse Valuation Guide' Page 38 and an additional page from the Warehouse Valuation Guide concerning 'Figure 6. Form Whs3 – Example of Sales Adjustment Processx'.

Also submitted as evidence for the Board's consideration were Composite Assessment Review Board Decisions – CARB 2077/2010-P, CARB 2093/2010-P, CARB 2103/2010-P and CARB 2086/2010-P, which the Complainant stated supported the adjustments made to the sale prices of the submitted comparables.

Respondent's Evidence:

The Respondent provided a location map and 2 photographs of the subject building.

The Respondent's evidence consists of four primary pieces of evidence in support of the assessment value – a 2011 Assessment Explanation Supplement, an Industrial Equity Comparables chart containing 7 comparable properties and an Industrial Sales Comparables chart with 12 sales to substantiate the rate per square foot being applied to the subject. The last submission is a smaller list of 5 Industrial Sales Comparables focusing solely on the comparables located in the Foothills Industrial Park.

The Supplement provides the details with respect to the subject property – building type, footprint, assessable area, and the percentage of finish, year of construction, site coverage and rate per square foot of \$186.00, the variables used in the determination of the assessment value. (R1, Pg. 16)

In rebuttal of the Complainant's comparable properties, the Respondent raised a number of concerns.

The Complainant's comparable at 6111 36 Street SE is classified not as a warehouse by the City of Calgary but an office. Supporting documentation is found in the Respondent's submission (R1, Page 22-24) in the form of a printout from RealNet which describes the structure as a 'Flex Office'. The Respondent also referred to the Complainant's submission (C1, Pages 16 &17). The Assessment Summary Report identifies the structure as CS0801 Offices Under 20,000 S.F. and Office/Lowrise (1-4 storey).

The Respondent submitted four decisions which supported their position for evidence to be submitted to support the requested adjustments – ARB 1041/2010-P, ARB 1046/2010-P, ARB

0530/2010-P. and CARB 1034/2011-P.

ARB 0394/2007-P was submitted also in support of the Respondent's position. Also an industrial warehouse complaint the decision speaks to the requirement for analysis to be conducted using similar properties.

Findings of the Board

Complainant's Submission:

The submission of the Complainant raised a number of concerns for the Board. Of primary concern is the lack of market evidence or analysis in the percentage adjustment being applied to the sales. During questioning by the Board, the Complainant referred the Board to the Assessment Advisory Group Valuation Methodology (C1, Page 19) and the Statement from the Appraisal Institute of Canada – 'It is the appraiser's experience and judgement that is important,' and therefore there was no need to submit any evidence as to how the adjustments were derived.

This position concerns the Board as it seems to go against the intent of the Appraisal Institute of Canada and their position on determining values. Within the quoted passage (Appraisal Institute of Canada 'Basics of Real Estate Appraising' 1994 Chapter 11 – The Direct Comparison Approach (VI) Types of Adjustment Pg 241) is another sentence which reads – 'This should not diminish the importance of using mathematics to assist in the value judgement.' Additionally, the opening paragraph to the AAG Valuation Methodology states 'our statistical analysis incorporated a measure of variance using coefficients of dispersion' which indicated to this Board analysis is conducted by the Complainant, who chooses not to submit this work.

Further the Board refers to the Complainants Submission on Physical Differences (C1, Page 20.), which reads 'Physical Differences such as superior height, a newer building, a better location, etc. must also be accounted for because they have an impact on the sale price. Establishing appropriated adjustments for these differences requires analysis of the sales data and stratifying sales into homogeneous classes'. Another reference from the same page states, 'Adjustments to sales data should be completed on the basis of research and analysis of the data.'

It is the opinion of the Board any analysis on the sales should be submitted in support of the adjustments. With no analysis submitted the Board is not prepared to accept the requested adjustments and the requested change to the assessment. The burden of proof is not satisfied to the Board.

The Board also notes there is not recognition for the differences in quality between the subject and each of the comparables, which would occur in standard appraisal technique. The Respondent stated this was recognized in other adjustments, but the explanation received as to how the adjustments were determined did not appear to recognize this variable in the calculation. The Respondent had stated the calculation for coverage was a change of 5% for every 9% of difference between the subject and the comparable. Year of construction is adjusted at a rate of 5% for every 10 years of difference between the subject and the comparable. Building size adjustment is based upon an adjustment of 5% for every 7000 square feet of difference between the subject and the comparable.

With respect to the Composite Review Board decision of 2010, the 2011 Board is not bound by the decisions of prior year's Boards, as each year is a new assessment with changing market conditions affecting the values. The Board may take guidance from past decision with respect to physical conditions such as lot size or building areas, but must make its own decision with respect to the current year's assessment. The Board finds the decisions provide little guidance as there is insufficient evidence contained in the decisions to show how the decisions were determined. The Board does take some guidance from the decisions CARB 2077/2010-P, CARB 2093/2010-P and CARB 2086/2010-P when addressing the Respondent's submissions – specifically the statement - 'the adjustments applied were not supported by evidence'. Although speaking to the Respondent, the rule is equally applicable to the Complainant. Adjustments, without evidence, carry less weight with the Board.

The Board has accepted the Respondent's position the comparable at 6111 36 Street SE is not a valid comparable and therefore will place little weight on the comparable in the Board's deliberations

Respondent's Submission:

The Board reviewed the Respondent's equity comparables which indicated the subject property was assessed in the same manner as the comparables. The subject property was assessed at a rate of \$187.00 per square foot, a rate which falls within the range of rates per square foot provided by the Respondent – \$179.00 to \$192.00. The Board recognizes the variances in the rates are a result of difference in the level of each variable, i.e. parcel size, rentable area, the percentage of finish, site coverage, year of construction and building type.

Upon review, the Board finds the sales provided support the rate per square foot applied to the subject property. The refining of the presentation to only those properties in the Foothills Industrial Park adds further support to the rate applied to the property under complaint.

As stated previously, the Board agrees with the Respondent, the property at 6111 36 Street is not a valid comparable for an analysis of warehouse properties. The description of the structure as a 'flex office' and the description of 10 foot wall height, as well as the photograph in the page from RealNet, leads to the Board's exclusion of the named property as a comparable.

The Board looks to the presentation of Assessment Review Board and Composite Assessment Review Board decisions. Both parties have presented decisions in support of their positions with respect to the disclosure of supporting evidence.

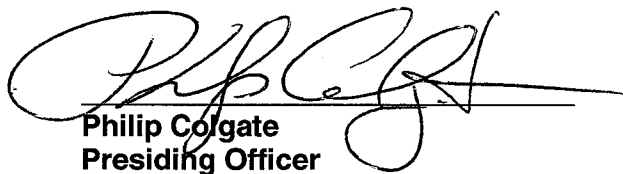
It is the opinion of this Board, the presentation of supporting evidence can only enhance the quality of any presentation and is a critical part of supporting a position by either party. With that said, it is the opinion of the Board, based upon prior decisions – *Manyluk v. Calgary (City)*, MGB Board Order 036/03 (Page 8), *Shirley Anne Ruben et al v. City of Calgary* MGB 239/00 (Page 15) and *Imperial Parking Ltd v. Calgary (City)* Board Order MGB 140/02 (Paragraphs 34 and 37) - there is a greater onus on the Complainant to provide the evidence to support their case, for failing to do so means the burden of proof is not met.

Board's Decision:

The Board finds the Complainant has failed to provide sufficient market evidence to substantiate a change to the assessment.

The Board confirms the assessment at **\$1,670,000.**

DATED AT THE CITY OF CALGARY THIS 12th DAY OF SEPTEMBER 2011.



Philip Colgate
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.*