

**COMPOSITE
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 (MGA).

between:

***Surefire Industries Ltd.*
(as represented by *Altus Group Limited*), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**C. J. Griffin, Presiding Officer
B. Bickford, MEMBER
E. Reuther, MEMBER**

This is a complaint to the Composite Assessment Review Board (CARB) 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: 094207008

LOCATION ADDRESS: 4700 – 47th Street SE

HEARING NUMBER: 68099

ASSESSMENT: \$41,360,000.

This complaint was heard on 17th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- D. Mewha
- M. Robinson

Appeared on behalf of the Respondent:

- T. Luchak

Property Description:

[1] The subject is, according to the Property Assessment Summary Report (Exhibit C-1A pg. 11), a large, 317,750 Sq. Ft. industrial manufacturing facility that was constructed in 1998. The substantial improvements sit atop a 40.04 acre site. The assessed value of the subject property has been derived through application of the Cost Approach.

Issues:

[2] There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issues to be considered by the CARB to:

1. The property was sold approximately six (6) weeks prior to the valuation date and that sale price, less the value of equipment and chattels, is the best evidence as to the market value of the property.

Complainant's Requested Value: \$34,450,000.

Party Positions:**Complainant's Position**

[3] The Complainant contends that the September 19, 2011 sale of the subject property provides the most reliable indication of its market value. The Complainant introduced (Exhibit C-1A pgs. 37 – 39) information pertaining to the original listing of the property in June of 2010. In addition the Complainant also provided (Exhibit C1A pgs. 41 – 66) sales summaries from two different sources, a copy of the purchase contract, the Certificate of Title and the Affidavit of Value. All of the foregoing confirm a purchase price of \$38,000,000. The sales contract also refers to certain overhead cranes and the respective crane-ways as well as certain furniture being included in the price. In order to derive an estimate as to the real estate portion of the sale the Complainant provided (Exhibit C1A pg. 69) a summary of five (5) land sales from within the area as well as (Exhibit C1A pg. 72) a chart explaining the Assessor's formula for an economy of scale derived land value and (Exhibit C1A pg. 79) a copy of the Assessor's base land rates for industrial lands. The value of the bridge cranes and the associated crane-ways has been estimated (Exhibit C1B pgs. 140 – 147) using *Marshall & Swift* (a recognised costing authority also used by the Assessor) as has the value of the office furniture (Exhibit C1B pg. 155). The foregoing provides, in the judgment of the CARB, a well supported net sales value of approximately \$34,450,000 (Exhibit C1B pg. 165) which forms the basis for the requested assessed value.

Respondent's Position

[4] The Respondent is of the opinion that the sale of the subject property is tainted by the fact that the sale also incorporates a leaseback of a relatively small portion of the office space (Exhibit R1 pgs. 11 – 50) at an initial rental rate of \$15/Sq. Ft. gross. The Respondent maintains that it is the existence of the aforementioned leaseback and the inclusion of some furniture and equipment that clouds the purchase price and makes it unreliable from the Assessor's point of view. As a result of the foregoing the Respondent has used the Cost Approach (Exhibit R-1 pgs. 7 -9) to value the subject property.

Complainant Rebuttal

[6] In their Rebuttal brief (Exhibit C2) the Complainant provides sales data supplied by the Assessor which includes validated sales which incorporate leaseback agreements. Accordingly the Complainant contends the sale of the subject should be given full consideration by the Assessor.

Board's Decision:

[7] The assessment is **reduced** to: **\$34,450,000.**

Decision Reasons:

[8] The Complainant provided strong support for their contention that the sale price of the subject is a more reliable indication of market value than the Cost Approach as applied by the Respondent. Conversely, the Respondent provided very little in the way of germane evidence to support the assessed value. It is important that the Respondent recognise that once the CARB determines that the Complainant has met Onus relating to the complaint, the Onus then shifts to the Respondent to defend the assessed value. In this regard the CARB is of the judgment that, in this case, the Respondent failed to meet Onus.

DATED AT THE CITY OF CALGARY THIS 4th DAY OF Oct 2012.



C. J. Griffin,
Presiding Officer

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

| NO. | ITEM |
|------------|---------------------------------|
| 1. C1A | Complainant Disclosure – Part 1 |
| 2. C1B | Complainant Disclosure – Part 2 |
| 3. C2 | Complainant Rebuttal |
| 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.*

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|---------------------------------|--------------------|---------------------------|----------------------|---------------------|
| <i>Decision No. 1790-2012-P</i> | | <i>Roll No. 094207008</i> | | |
| <u><i>Subject</i></u> | <u><i>Type</i></u> | <u><i>Issue</i></u> | <u><i>Detail</i></u> | <u><i>Issue</i></u> |
| CARB | Industrial | Market Value | Sale of Subject | Market Value |