

**CALGARY
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 (the Act).

between:

SREIT (Nuquest Calgary Ltd.) as represented by Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

P. Pask, MEMBER

D. Steele, MEMBER

This is a complaint to the Calgary 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: | 031001894 |
| LOCATION ADDRESS: | 3740 27 ST NE |
| HEARING NUMBER: | 67649 |
| ASSESSMENT: | \$5,220,000 |

This complaint was heard on the 18th day of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *C. Van Staden, Altus Group Limited*

Appeared on behalf of the Respondent:

- *K. Cody, City of Calgary*

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

[1] The following Complaints were heard during the week of September 18 through to and including September 20, 2012:

| File No. | Decision No. | Roll No. | Address |
|----------|--------------|-----------|----------------------|
| 68196 | 1825/2012-P | 009023607 | 7912 10 ST NE |
| 66805 | 1818/2012-P | 009023706 | 7757 8 ST NE |
| 67649 | 1819/2012-P | 031001894 | 3740 27 ST NE |
| 68182 | 1824/2012-P | 031024003 | 4300 26 ST NE |
| 68179 | 1823/2012-P | 031024300 | 4152 27 ST NE |
| 68174 | 1822/2012-P | 032041592 | 2415 PEGASUS RD NE |
| 67690 | 1820/2012-P | 200478519 | 3800 WESTWINDS DR NE |
| 68115 | 1821/2012-P | 200776896 | 2777 HOPEWELL PL NE |

[2] **Common Issues:** The same Board members were in attendance throughout the week and the Parties were represented by the same individuals. Many of the issues, arguments, questions and responses were common throughout. At the request of the Parties and with the concurrence of the Board, those commonalities were carried forward from the hearing where they were first raised to subsequent hearings, without being restated in full in each hearing or in each written decision. For the purpose of this Complaint, common issues from File No's 68196 and 66805, Decisions 1825/2012-P and 1818/2012-P were carried forward.

[3] **S. 299, MGA:** In each of the Complaints, the Complainant referenced information related to s. 299 of the Act. In each case, the Complainant confirmed that there was no claim that the Respondent was in default with respect to the requested disclosure.

[4] **Confidentiality:** In all but one of the Complaints, the Complainant, in writing by way of the transmittal page on the various documents, stated that there were pages within those submissions that were confidential and that "MUST remain out of the public domain." The Board advised the Complainant that Complaint Hearings are public hearings and that there was no mechanism in place by which some documentation could be kept from the public domain unless the Complainant did not enter it into evidence. In all cases, the Complainant chose to submit the documents into evidence in support of the Complaint

Property Description:

[5] The property under Complaint is a 4.31 acre parcel, located at 3740 27 St. NE in the Horizon Industrial area. Its land use classification is Industrial General (I-G). It contains one multi-tenanted warehouse, constructed in 1979, with a total assessable area of 65,958 square feet (sq.ft.) of which 12,080 sq.ft. is exempt from taxation. The total amount of finished space is 34 per cent. It is assessed using the Sales Comparison approach to value at \$96.83 per sq.ft.

Issues:

[6] Is the 2012 assessment too high when tested against the application of various valuation approaches and assessment tests?

[7] While the Complainant's request incorporated a calculation for the exempt portion of the property, that portion of the property is contained on a different roll number and does not form part of the subject Complaint.

Complainant's Requested Value:

[8] The Complainant requested that the assessment be reduced to \$4,910,000 based on \$91 per sq.ft.

Board's Decision in Respect of Each Matter or Issue:**1. Assessment to Sales Ratio:**

[9] The Complainant advised that she had extracted 164 sales of individual warehouses from the City's list of non-residential sales covering the period between July 2008 and June 2011. She included a notation about and calculation of 22 sales of properties within the 50,000 to 100,000 sq.ft. range. From this data, she calculated the minimum, maximum, median and mean, time adjusted assessment to sales ratios. She identified the coefficients of dispersion and variation of these ratios. The Complainant contended that it is the position of the International Association of Assessing Officers (IAAO) that "the overall ratios between the various groupings" cannot be more than 5 per cent. The Complainant said that the analysis she performed indicated that the indicated ratios had exceeded that limit. The Complainant further quoted an IAAO document as follows: "... Ratio statistics cannot be used to judge the level of appraisal of an individual parcel".

[10] The entirety of the City's list of sales was in evidence but the Complainant's selected list and analysis were not. Without the analysis that supports the Complainant's conclusions, it is not possible to form an opinion on the results.

[11] In any event, it is not the Board's role to rule on the validity of the Respondent's asset range. *Matters Relating to Assessment and Taxation Regulation* AR 220/2004 (MRAT), s.10 in particular, governs the quality standards and procedures established through the Alberta Assessment Quality Minister's Guidelines and s. 293 of the Act.

[12] The Complainant's position on the assessment to sales ratio carried little weight in the Board's deliberations on the merits of the Complaint.

2. Equity Comparisons:

[13] The Complainant used four properties ranging in assessable area from 59,573 sq.ft. to 96,804 sq.ft. with parcel sizes ranging from 3.56 acres to 8.70 acres. The first two properties are single-tenanted buildings; the subject is a multi-tenanted building.

[14] The Complainant acknowledged that the equity examples required adjustments to make them comparable to the subject. She advised that these adjustments were made on an analysis of paired assessments that resulted in a median adjusted assessment per sq.ft. of \$90. She pointed to 700 33 St. NE, in Franklin, as the best comparable with an assessment per sq.ft. of \$91 but which, when adjusted, came to \$94 per sq.ft.

[15] The Respondent noted that the comparable at 1939 Centre Av. SE. is a special purpose multi-building property that has been assessed using the Cost Approach and cannot be compared equitably to the subject.

[16] The Respondent listed six comparables of which, she said, the property at 2712 37 Av. NE was the most comparable. It is somewhat newer and has somewhat less land and assessable building area but is located in the same industrial area and has similar site coverage and percentage of finish. It is assessed at \$96.73 per sq.ft., almost identical to the subject's \$96.83. The Board also considered the property at 3515 27 St. NE. This property is much closer in land and assessable building area, is one year newer with only slightly less percentage finish and site coverage. It is assessed at \$99.13 per sq.ft., just slightly higher than the subject.

[17] The Complainant provided no supporting documentation for the buildings included in the equity analysis. The analysis to support the adjustments was not in evidence for her own comparables or with respect to the adjustments to the Respondent's equity comparables that she introduced in Rebuttal. The Board had no way to determine the appropriateness of the adjustments that were made. Accordingly, the Board was not able to make a positive determination for the Complainant on the equity argument. On the other hand, the Respondent's comparables included no adjustments, were superior in the majority of the key elements and supported the assessment.

3. Sales Comparisons:

[18] The Complainant used the properties detailed in her equity chart as her sales comparisons and also identified 700 33 St. NE as her best sales comparison noting that all of the comparables required adjustment to bring them to the subject. There was no documentation provided in the Complainant's package to support any of the sales information although she did identify that all the sales were obtained from the list provided by the City and reproduced in C1 on pages 34 to 41.

[19] The Complainant also charted the four properties on p.14 of C1 and included an "Adjustment Summary" which, despite an additional explanation requested by the Board, was not comprehensible either in its calculation or its results.

[20] The Respondent provided 3 sales comparisons and agreed that 700 33 St. was the best comparable to the subject property and noted that the time adjusted rate per sq.ft. was \$96.95, almost identical to the assessed rate of the subject. The Respondent's comparables were not

supported by any documentation although the Parties agreed that there was no concern with respect to the factors used in the time adjustments.

[21] The Complainant was not able to provide a serious challenge to the assessment either with evidence to support the sales provided or in arguing the adjustments she applied. In fact, the Complainant's best comparable supported the assessment.

4. Cost Approach:

[22] The Complainant provided a summary report, using Marshall & Swift (M&S) and added a land value using the City's rates to arrive at an assessed value of \$6,011,193. The building indicated 100% Storage Warehouse and added main floor office in the Office-Mezzanine section at 14,511 sq.ft.. The detail of the inputs and calculations was not provided.

[23] The Respondent noted that the building contains 34 per cent finished space and that the Complainant's approach is arbitrary and doesn't correctly reflect the Marshall & Swift input parameters. Neither Party produced M&S documentation.

[24] In the absence of more detailed calculations and text from Marshall & Swift, the Board found that the Complainant had insufficient evidence to support the requested assessment.

Board's Decision and Reasons:

[25] In reviewing the Complainant's argument of equity and sales, the Board was not able to examine the specific properties that were advanced as comparable.

[26] While the Board does not rule on one valuation method over another, it recognizes that the Cost approach is generally applied to special purpose buildings not, as in this case, very standard and typical warehouse properties. Regardless of how that issue might have been determined, the evidence advanced on the costing of these buildings was not sufficiently supported, given the issues raised by the Respondent.

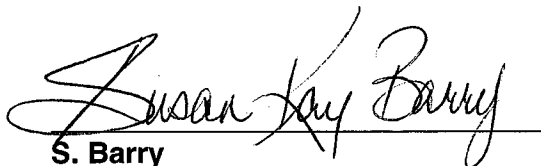
[27] Finally, although not documented above, the Complainant raised the argument that, once the Complainant has established a *prima facie* case, the onus shifts to the Respondent – that the Complainant is only required to cast doubt on the assessment and is not required to prove what the correct and equitable assessment should be. The Complainant also stated that unless the Respondent provides direct proof that the Complainant's evidence is in error then it is deemed to be correct.

[28] The Board has difficulty accepting the latter part of this argument but that is not relevant here. What is relevant is that, in the Board's opinion, the Complainant did not establish a *prima facie* case. Accordingly, the Complaint failed.

Board's Decision:

[29] The 2012 Assessment is confirmed at \$5,220,000

DATED AT THE CITY OF CALGARY THIS 11 DAY OF October 2012.



S. Barry
Presiding Officer

APPENDIX "A"

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

| NO. | ITEM |
|------------|--|
| 1. C1 | Complainant's Disclosure |
| 2. R1 | Respondent's Disclosure |
| 3. C2 | Complainant's Rebuttal |
| 4. C3 | Complainant's Legal Argument and Closing Summary |

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 MGB Administrative Use Only

| Decision No.: 1819/2012-P | | Roll No.: 031001894 | | |
|---------------------------|---------------|---------------------|------------|---|
| Subject | Property Type | Ppty Sub-type | Issue | Sub-Issue |
| CARB | Warehouse | Multi-tenant | Sales Comp | Equity, Sales, Cost, ASR, Confid. S.299 |