

**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:

Canada Safeway Limited (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

M. Grace, MEMBER

B. Jerchel, 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:	200377281
LOCATION ADDRESS:	3440 56 AV SE
HEARING NUMBER:	62886
ASSESSMENT:	\$13,310,000

This complaint was heard on the 15th day of Aug., 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:

- Mr. J. Smiley (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. I. Baigent

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

There were no concerns with the composition of the Board.

There were no preliminary matters. The merit hearing proceeded.

At the outset, both parties agreed that all evidence and argument with respect to the Complainant's Disclosures (C-2) Industrial Capitalization Rate Analysis 2011 Assessment Year and (C-3) Tab 7, would be heard once and carried forward to Hearing #s 62890, 63093, 63203, 63829, 63831, 63833, 63835, 63841, 63842, 63849, 63856, and 64733.

Property Description:

The subject property is a 13.76 acre parcel located in the Foothills Industrial District in SE Calgary. The site contains a single tenant warehouse that was constructed in 1979 with 154,518 square feet (SF) of rentable building area, 24.37 % site coverage, and 10% finish. The site is deemed to have 2.58 acres of extra land. The subject is assessed at a rate of \$86 per SF utilizing the Direct Sales Comparison Approach to Value.

Issues:

The Assessment Review Board Complaint Form contained the following statements:

1. "The assessment of the subject property is in excess of its market value for assessment purposes.
2. The municipality has applied the incorrect valuation methodology when calculating the assessed value of the subject property.
3. The valuation method used for the subject property is fundamentally flawed in both derivation and application.
4. The direct sales comparison approach used by the City has included sales that should not be considered in determining the market value of the subject property", amongst other things.

Complainant's Requested Value: \$7,110,000 (Complaint Form)
\$10,230,000 (Hearing)

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

The Complainant argued that there are not enough sales of properties with comparable characteristics in order to reliably determine the value of the subject, and further that an Income approach using typical information, all of which is readily available, is a suitable method for estimation of value. The Complainant advised that the City of Calgary provided a list of sales (154) for the period July '07 to June '10 which it used in its model to determine the assessed value for the industrial inventory. Through the use of a table on page 7 (C-2), the Complainant demonstrated that over the 18 months prior to the valuation date (July 1, 2010), there was a very limited amount of sales (56) within even the most basic size strata, and further there were only 21 sales in the base year. In the alternative, the Complainant submitted the Income Approach to Value is a better method of estimating value.

The Board notes that the goal is to achieve the objectives of ss.2 and 3 of Matters Relating to Assessment and Taxation Regulation, AR 220/2004 (MRAT). The Respondent presented several decisions of the Municipal Government Board (MGB), CARB and the Courts, which do not need to be recited here, that respect the right of the Respondent to use the method it deems more appropriate. The Board notes that this does not preclude the Complainant from demonstrating that a different approach may result in a more accurate market value or a more equitable assessment.

In support of its use of the Income Approach, the Complainant provided Industrial Cap Rate Analysis 2011 Assessment Year labelled (C-2). The Board's decision on the utility of the Analysis is applicable to all thirteen complaints referenced in this decision. That Analysis will be dealt with in this decision and carried forward to the twelve others noted above.

In its Analysis, the Complainant uses a 5% Vacancy rate which is taken from an aggregate of market publications, submitting that it represents a city wide average and can be applied to sales and assessments city wide.

In its Analysis, the Complainant selected only the 8 sales that occurred between January 2009 and July 2010 where actual income could be verified, excluding atypical properties and leasebacks. The properties were then stratified by 2 age categories, vis a vis, pre and post 1995. After analysis, the Complainant concluded that the Cap rate for pre 1995 industrial properties was 8.25% and the Cap rate for post 1995 industrial properties was 7.75%.

The Respondent submitted that the Complainant's Cap Rate Analysis cannot be relied upon and that Decisions of other CARBs had rejected the use of the same Analysis. These decisions are partially summarized as follows:

1. CARB 0859/2011-P "The sample size of sales that supported the study was quite limited and did not generate the degree of confidence the Board would want in order to accept the Study results as appropriate for determining market value on each of the properties under complaint."
2. CARB 1014/2011-P "The Board does not accept the Claimant's "cut-off" date of 1994 as being the demarcation line between a 7.75 and 8.25 per cent capitalization rate. The date is simply too arbitrary, and does not reflect typical market behaviour".

In addition, the Respondent noted that in the development of the Cap Rate the Complainant had

used actual leases in place, and market lease rates (typical) where spaces were identified as vacant.

The Board finds the Complainant's Cap Rate Analysis methodology flawed and the conclusions derived therein unreliable.

Issue Market value

The Complainant's Disclosure is labelled C-1.

The Complainant, at page 11, utilized the Income Approach to Value with the parameters of \$5.75 per SF for rent rate (as deduced from the 2011 Business Assessment), Vacancy of 5%, and a Cap Rate of 8.25% (from the Cap Rate Analysis), to arrive at an indicated value of \$10,230,965. (\$66 per SF)

The Respondent's Disclosure is labelled R-1.

The Respondent, at page 126, provided 2011 Industrial Equity Comparables which contained 3 Equity Comparables with assessments of \$75, \$83 and \$95 per SF, noting the subject was assessed at \$86 per SF.

The Respondent, at page 127, provided Sales Comparables (Industrial Warehouse 100k+ sf) which contained 12 sales with Time Adjusted Sales Prices per square foot (TASP/SF) ranging from \$81 to \$135. The Respondent argued that the complainant's request for an assessment of \$66 per SF wasn't even in the range identified by the market.

The Board finds the market evidence submitted by the Respondent more persuasive.

Board's Decision:

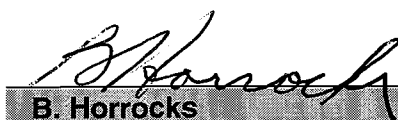
The 2011 assessment is confirmed at \$13,310,000.

Reasons

The Complainant's Cap Rate Analysis is not reliable in that the calculation of the value of a property using the income approach uses some factors derived from actual data, and some factors derived from typical data.

The assessed value of the subject is within the range of market values for similar industrial properties.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF August 2011.


B. Horrocks
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Industrial Cap Rate Analysis
4. C3	Tab 7
5. C4	Rebuttal Evidence of the Complainant

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.*