

**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**

***Hyatt Auto Sales Ltd.***  
***(as represented by Colliers International Realty Advisor), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before**

***Lana Yakimchuk, PRESIDING OFFICER***  
***Ian Fraser, MEMBER***  
***Peter Charuk, 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:

<b>ROLL NUMBER:</b>	<b>200538007</b>
<b>LOCATION ADDRESS:</b>	<b>3953 112 Ave. SE</b>
<b>HEARING NUMBER:</b>	<b>61208</b>
<b>ASSESSMENT:</b>	<b>\$12,080,000</b>

This complaint was heard on August 18, 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:

- *Mr. David Porteous, Colliers International Realty Advisors*

Appeared on behalf of the Respondent:

- *Mr. Jason Lepine, City of Calgary Assessment Business Unit*

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

There were no procedural or jurisdictional matters.

**Property Description:**

The property is described on the assessment roll as a 91,807 square foot Industrial Warehouse building (IWM) with a 66,077 square foot footprint, on 4.28 acres in SE Calgary. It is a 2006 building with 50% finish. Photographs show an industrial retail building with bays that have loading doors in back and retail fronts. The current assessed value is \$12,080,000 or \$132.00 per square foot.

**Issues:**

The Matter for Complaint was the assessment is too high. The issues are market value and equity, as well as the assessable size of the building.

**Complainant's Requested Value:** \$6,630,000 or \$100.00 per square foot.

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

Mr. Porteous, on behalf of the Complainant, presented an income approach argument (C-2, p.156) based on statistics from an Industrial Appraisal Chart with known capitalization rates put together by Colliers. Capitalization rates for the four comparable buildings ranged from 6.44% to 8.47% and net operating income/square foot ranged from \$11.76 to \$49.01. The request for an assessment of \$100 per square foot is based on this approach.

The Complainant also provided three tables of sales comparables categorized as SE, IWM, and IWS respectively. The tables showed properties in an age range from 1972 to 1998, with average unadjusted sales prices of \$102.26, \$104.94 and \$103.27.

Further, Mr. Porteous asked that mezzanine area not be included in the assessment area as the mezzanine was used for storage and not included as rented area by the owner. When asked who is using the mezzanine area, the Complainant said it was used by the renters for storage, but there were no defining walls, just railings and shelving. He also included a definition of storage mezzanine as rentable mezzanine area. Mr. Porteous also submitted a tenant rent roll for the Hyatt Parke building which indicated that 66,393 square feet of space were being leased

at an average rate of \$11.63 per square foot (C-2, p.149).

Mr. Lepine, on behalf of the Respondent, stated that any direct comparison should be shown to be reflective of the subject. As the similar sales presented by Colliers are significantly older than the subject property and have greater site coverage and inferior finish to the subject property they are not truly reflective of the subject. The Respondent presented a list of comparables (R-1, p. 29) which were more similar to the subject property and adjusted to reflect the differences. This table was supportive of the assessed value.

Mr. Lepine stated that the comparables used by Colliers in the income approach are also not like the subject property. As well, the capitalization rate used by the complainant reflects a leased fee interest, not a fee simple interest as required by the MGA in establishing an assessment.

In addressing the issue of the assessable size of the property, Mr. Lepine submitted the Assessment Requests for Information (ARFI) for 2010 and 2011. The documents indicate that the owner is declaring less rentable area in 2011 (*post facto*) than in 2010 because of the mezzanine area. Further, Mr. Lepine stated that there is some support for reducing the total assessable area to 86,880 square feet because the end bays of the building are open and do not have mezzanine areas.

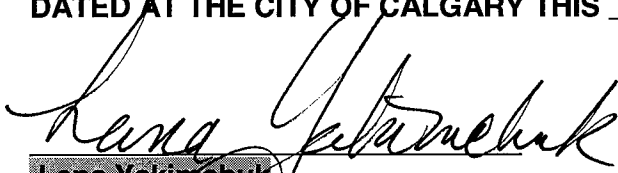
There is some support for a reduction in the number of square feet assessed. The Board recommends that both parties should visit the subject property to confirm the exact assessable area.

The Board accepts that the comparable properties presented in both the income approach and the sales approach were not truly reflective of the subject property. Therefore the request for a reduction in assessment is not supported.

**Board's Decision:**

The assessment is confirmed at \$12,080,000.

DATED AT THE CITY OF CALGARY THIS 7<sup>th</sup> DAY OF September 2011.

  
**Lana Yakimchuk**  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure with photos
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.*