

**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:

TONKO DEVELOPMENT CORP (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

D. Julien, MEMBER

J. Massey, 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:	054013008
LOCATION ADDRESS:	2915 10 AVE NE
HEARING NUMBER:	64058
ASSESSMENT:	\$4,420,000

This complaint was heard on the 16th day of August, 2011 at the offices of the Assessment Review Board which are located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 2.

Appeared on behalf of the Complainant: Christine Van Staden (Agent)

Appeared on behalf of the Respondent: Marcus Berzins (Assessor)

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

No issues of procedure or jurisdiction were raised.

Property Description:

The subject is a 3.13 Acre lot with a 48,000 SF multi tenanted warehouse, built in 1978, with a site coverage of 35.17 %, and an interior finish of 37%, located in the community of Franklin.

Issues:

Whether the subject property is properly assessed in light of comparable buildings and plots of land.

Complainant's Requested Value:

\$4,140,000

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

This file, along with a number of others was heard on the understanding that the Complainant would argue Capitalization Rate and also Rebuttal once, and then, that argument would be applied to all the other files in the series, without them having to be re-argued. Accordingly, the Cap Rate and Rebuttal portion of the presentation from the first file is reproduced immediately hereafter to assist the reader in understanding the flow of the presentations.

Before proceeding, with the substance of their argument, the Complainant presented an argument regarding their requested Capitalization Rate. The argument presented was protracted, and had been made before other Boards previously. They requested that their argument on Cap Rate and their Rebuttal be applied to all of the files subsequently heard in this series. The Board agreed to do so.

The Complainant presents a large amount of data in support of their Cap Rate argument. A lot of theory is argued by both sides. However, in light of all the information presented by both of the parties, it is apparent that the Complainant's Cap Rate argument has not changed from its previous incarnations (where it is requested that the Cap Rate be set for the subject property at 8.25%). In light of previous decisions on this same Cap Rate argument, as well as what was presented today, the Board finds that the Cap Rate position of the Complainant is not supportable. The Complainant's requested Cap Rate is simply too high

The reason for the Board's rejection of the Complainant's position on their requested Cap Rate is that it is apparent in the calculations they use to support their view, some of the data and the methodology the Complainant employs is flawed. This is especially true where the Complainant mixes actual and typical values in their calculations to come up with the numerical results. In addition, the Respondent queried whether the Complainant used step-ups. This was questioned forth and back during the cross-examination portion of the hearing.

The Complainant argues that the Respondent has not presented any evidence to show that the requested Cap Rate is not correct, therefore the requested Cap rate should be accepted.

The Respondent argues that many Boards have heard the Complainant's current argument on Cap Rates, and they have rejected it. This argument did not sway the Board. However, after hearing the argument advanced by the Complainant on Cap Rate today, the Board is still not convinced that available information supports their requested Cap Rate. At any rate, the Board does not accept the Complainant's requested Cap Rate.

For the actual merit hearing, the Complainant produces 2 sales comparables and 7 equity comparables. The sales comparables do not meet the standards with respect to ratio studies. The ratios are 83.33% and 112.49% respectively. The median of the equity comparables is \$88/SF, whereas the assessment of the subject is \$92/SF

The Respondents present 7 equity comparables and 7 Industrial Sales Comparables. The median of the Respondent's time adjusted sales is \$109/SF, which supports the assessment. The Respondents comparables have a Site Coverage that is both above and below the subject, and a Net Rentable Area that is very close to, or, slightly larger than the subject. The Respondent's first sales comparable is compellingly close to the parameters of the subject.

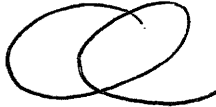
In addition to all of the foregoing, the equity comparables presented by the Respondent support the assessment. Further, the Respondent presented information in response to the Complainant's Cap Rate study which demonstrated why it cannot be relied on.

The Respondent sums up by saying that they have the best comparables. It is apparent to the Board that all of the comparables, both sales and equity from both parties support the subject assessment. Accordingly, the Complainant has not met the onus required of him to show that the subject assessment is incorrect, and it must therefore be confirmed in the amount of \$4,420,000.

Board's Decision:

.The subject assessment is confirmed

DATED AT THE CITY OF CALGARY THIS 21st DAY OF SEPTEMBER, 2011.



R. Glenn
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Cap Rate Analysis
3. C3	Complainant Rebuttal
4. 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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Decision No. 1884-2011-P Roll No.054013008				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Warehouse	Multi Tenant	Sales Approach	Market Value