

*****REVISED***
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:

1414225 Alberta Ltd. (as represented by Cushman & Wakefield Ltd.), COMPLAINANT

And

The City Of Calgary, RESPONDENT

Before:

***D. H. Marchand, PRESIDING OFFICER
D. Cochrane, MEMBER
D. Julien, 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:

LOCATION ADDRESS:	101 – 6th ST SW
HEARING NUMBER:	64930
LEGAL DESCRIPTION:	Plan A1; Block 2; Lots 16,17 Multiple Legals
ROLL NUMBER:	067001826
PROPERTY ASSESSMENT	5,620,000

This complaint was heard on 27th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta; Boardroom 2.

Appeared on behalf of the Complainant:

- *J. Gorasht*

Appeared on behalf of the Respondent:

- *E. Borisenko*

Procedural or Jurisdictional Matters:

No preliminary matters were raised by the Parties. Both Parties swore an oath. No objection was raised as to the composition of the CARB panel.

Property Description and Background :

- The subject property is located within the downtown EAU CLAIRE Community.
- The subject is identified with a sub-property use code CS3150– Warehouse Marginal
- The land use designation is Direct Control District under bylaw 4Z2001.
- The parcel has a site area consisting of 23,078 square feet. It is improved with a 2 storey office building built in 1912 with 24,112 square feet of rentable area. For years the property was known as the “Graphic Arts Building”. The space was recently renovated and demised into office space for seven different tenants. Rents currently range from \$16.50 to \$34.00 per square foot. The space held by Kanesco Holdings is the space that is exempt from taxation and the assessment of this space is shown under a separate sub- account.
- There is no dispute that the property is in a period of transition and redevelopment and that the direct sales comparison approach is the methodology of choice for the subject’s assessment.
- The Municipality has assessed the property based on a market rate per square foot. (Rate = Sales price divided by land area)
- For the subject the rate of \$275 per sq. ft. plus a 5% corner allocation adjustment was selected and applied or \$289.00 per square foot of land area.
- The Complainant is requesting a rate based on a market sales rate per buildable square footage. (Rate = sales price divided by buildable square foot) The buildable square footage is the floor area ratio as set by the bylaw or zoning.
- The rate of \$40.00 per buildable square footage was requested **at the hearing.**
- The subject currently has Floor Area Ratio (FAR) set out in Bylaw 4Z2001 is 3.5 times.
- The rate of \$40.00 per buildable square footage in this case is the equivalent to \$140.00 per square foot.

Issue:

1. Is the assessment reflecting the market value standard and is the assessment equitable with the adjoining property.

Legislation:***The Municipal Government Act, R.S.A. 2000, c. M-26***

1(1) In this Act,

- (n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

289(2) Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- (b) the valuation and other standards set out in the regulations for that property.

467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

Matters Relating to Assessment and Taxation Regulation (AR 220/2004)

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Complainant's Position:

The Complainant submitted the details of seven sales, complete with their analysis and adjustments. The following table (table 1:) identifies the comparables

No.	Address	Sale Date	Sale Price	Size (sq. ft.)	FAR	Buildable Sq. Ft.
1	905 – 15 th St. SW	June 2007	\$4,727,280	78,713	2	157,426
2*	1013 -39 – 5 th ave & 508-10 10 th ST.SW	Feb 2008	\$20,808,710	46,487	7	325,409

No.	Address	Sale Date	Sale Price	Size (sq. ft.)	FAR	Buildable Sq. Ft.
3	731-39 – 10 ave SW	Feb 2009	\$4,000,000	19,500	8	156,000
4*	401 – 4 th Ave. SE	Feb 2009	\$10,653,855	42,689	7	298,823
5*	923 – 8 th Ave SE	July 2010	\$6,000,000	32,670	12	392,040
6*	221 – 9 th Ave SE	July 2010	\$11,000,000	54,450	12	653,400
7	915 – 15 th St SW	April 2009	\$2,254,508	37,462	2	74,923

* Respondent provided the same sales in their submission.

The Complainant explained an adjustment of 15% was made to Index No. 3, 5, and 6 as they are judicial sales and that they may reflect lower sales values than these properties would have otherwise obtained under fair market conditions. The next adjustment considered was market conditions over time. Concluded by the Complainant is that sales occurring in 2007 and 2008 require no adjustment. Sales from 2009 to the effective date receive a 5% annual compounding to adjust for the passage of time. Table 2: shows 7 comparable sales with the complainant's adjustment applied to them to make them relative to the subject:

Table 2;

No.	Unadj. sales price per Buildable area	Unadj. sales price per sq. ft.	Forced sale adj.	Time Adj.	Loc. Adj.	Size adj.	Adjusted sales price per Buildable area	Adjusted sales price per sq. ft.
1	\$30.03	\$60.06			+10% inf.	+10%	\$36.04	\$72.07
2	\$64.04	\$448.26			+5% inf.		\$67.24	\$470.67
3	\$25.64	\$205.13	15%	7.1	+10% inf.		\$34.74	\$277.91
4	\$35.65	\$249.57		7.1	+10% inf.		\$42.00	\$294.02
5	\$15.30	\$183.65	15%	-0.1	+5% inf.		\$18.46	\$221.54
6	\$16.70	\$200.41	15%				\$19.21	\$230.47
7	\$30.09	\$60.18		1.2	+10% inf.		\$33.50	\$66.99

The Complainant's initial position was that the median, per buildable area of \$34.74 (rounded to \$35.00) was good indicator of the subject's value on a per buildable square foot basis.

At the hearing the Complainant asked that the forced sales indicators not be considered and as such a rate of \$40.00 per buildable area was the rate to be applied to the subject's 80,733 sq. ft. of buildable square footage.

In summary the complainant states:

To summarize we have evaluated properties that have a FAR of 3.0 to 7.0. Properties that allow 8.0 to 12.0 FAR have been evaluated on an 8.0 FAR and those that allow up to 20.0 FAR have been analyzed on the bases of a 12 FAR. In our professional opinion the are fair indications of market sentiment on financially feasible and maximally productive development densities, We have taken into consideration the variance in allowable densities and have analyzed the comparables accordingly.

The Complainant's request is based on the subject's parcel size of 23,078 square feet and it's Floor Area Ratio (FAR) of 3.5. The Buildable square footage is 80,733 sq. ft. (23,078 sq. ft. x 3.5).

The buildable square footage of 80,733 square feet at the rate of \$40.00 per buildable square foot yields the Complainant's request of **\$3,229,000.**

Respondent's Position:

The Respondent submits that assessment is predicated on sales price per square foot as indicated by similar property that has recently sold. The following table shows the comparables in support of the \$275.00 per sq. ft rate that was applied to the subject's 23,078 square feet.

Table 3:

No.	Address	Sale Date	Sale Price	Size (sq. ft.)	SP/SF	TA 5% (09-2010)
1	700 – 1 st Ave. SW	May 2007	\$26,571,218	96,979	\$273.99	\$287.69
2	1013 -39 – 5 th Ave & 508-10 10 th ST. SW	Feb 2008	\$20,838,710	39,980	\$521.23	\$547.29
3	633 – 3 Ave. SW	Jun 2008	\$20,500,000	32,498	\$630.81	\$662.35
4	907 – 9 Ave. SW	Sep 2008	8,250,000	30,678	\$268.92	\$282.37
5	401 – 4 th Ave. SE	Feb 2009	\$10,653,855	42,596	\$250.11	\$262.62
6**	919 – 5 Ave SW	Oct 2009	\$3,500,000	9,764	\$358.46	\$432.84
7**	923 – 8 th Ave SE	July 2010	\$6,000,000	32,626	\$183.90	\$211.49
8**	221 – 9 th Ave SE	July 2010	\$11,000,000	54,706	\$201.07	\$231.24

** Foreclosure sales

The CARB was advised that Indicators #1 and # 3 are in close proximity to the subject. That Indicator # 1 was immediately across the street from the subject. The CARB was also advised that indicator #1 has a DC/RM-7 (Residential High density Multi-Dwelling) land use designation and that indicator #3 has a DC/CM-2 (Downtown Business District) land use designation. Hence the marked difference in the rate per square foot.

The Respondent argued that Complainant indicators were not in the same location as the subject, and that the adjustments made were arbitrary and unsupported. The Respondent requested a confirmation of the market value assessment as being correct, fair, and equitable.

Findings:

The CARB concurs with the Respondent that the sales indicator that is most similar to the subject is the property adjacent and across the street at 700 – 1st avenue SW.

The CARB accepts the Complainant request to disregard the foreclosure transaction on the bases that they are highly motivated sales and the measure of the motive amount in this case is subjective at best.

The CARB received no supporting evidence for the adjustment used in table 2.

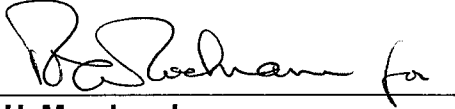
Board's Decision

The unit of comparison considered to best represent the subject comes from the sale of the property identified as 700 – 1st avenue SW. The price per sq. ft. buildable as reported RealNet Canada Inc. at \$78.00. With a Floor Area Ratio (FAR) set out in Bylaw 4Z2001 at 3.5 times for the subject then the price per sq. ft. buildable of \$78.00 is the equivalent of \$273.00 per sq. ft. of land area. The assessment equates to \$275.00 per sq. ft. of lands area.

The Assessment is confirmed **at \$5,620,000** and assigned as follows:

ROLL NUMBER: 067001826 amended assessment **5,620,000**

DATED AT THE CITY OF CALGARY THIS 2 DAY OF November 2011.

A handwritten signature in black ink, appearing to read "D. H. Marchand", written over a horizontal line.

D. H. Marchand
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Copy of CARB 1921/2011-P as pt. of summary
3. 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.*

For MGB Administrative Use Only:

Decision No. 1952-2011-P		Roll No. 067001826 Calgary		
<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Warehouse	Warehouse single Tenant	Income Approach	Land and Improvement