

**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:**

***Libtel Investments Ltd.  
Aviva Holdings Ltd.  
(as represented by Altus Group Limited), COMPLAINANT***

**and**

***The City of Calgary, RESPONDENT***

**before:**

***J. Dawson, PRESIDING OFFICER  
S. Rourke, MEMBER  
A. Zindler, 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:

<b>ROLL NUMBER:</b>	<b>090064502</b>
<b>LOCATION ADDRESS:</b>	<b>4524 1 Street SE</b>
<b>LEGAL DESCRIPTION:</b>	<b>Plan 5831GN; Block B; Lots 3 and 4</b>
<b>HEARING NUMBER:</b>	<b>68046</b>
<b>ASSESSMENT:</b>	<b>\$ 1,080,000</b>

- [1] This complaint was heard on the 3 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 4, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 1.
- [2] Appeared on behalf of the Complainant:
- R. Worthington                      Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- J. Greer                                      Assessor, City of Calgary

### **SECTION A: Preliminary, Procedural or Jurisdictional Issues:**

- [4] No preliminary, procedural, or jurisdictional matters were identified.

### **SECTION B: Issues of Merit**

#### **Background:**

- [5] The Board heard that the general concern of the Complainant was the methodology and assumptions made by the Respondent. The Respondent publishes a document to explain the predominate criteria for adjusting properties to arrive at their assessment. This document varies depending on the stratification of a subject property, in this case, the document utilised is "Assessment Range of Key Factors, Components and Variables – 2012 Industrial". *The Act* section 289(2)(a) is referenced by the Complainant to establish that the physical characteristics and condition as of December 31 are the determinate factors with a valuation date of July 1 (as found in *Matters Relating to Assessment and Taxation [MRAT]* regulation section 3). The Complainant contends that the Respondent is speculating on what the property might sell for if a purchaser changed the property in one manner or another.

#### **Property Description:**

- [6] Constructed in 1954, the subject – 4524 1 Street SE, is a single-storey, single-tenant industrial warehouse building with 25% office finish. The subject is located three blocks south of 42 Avenue SE and two blocks east of McLeod Trail in an area known as Manchester Industrial with a non-residential sub-market zone [NRZ] of NM5.
- [7] The Respondent prepared the assessment showing site coverage of 30% with a 4,000 square foot building, graded as a 'D' quality, assessed at \$194.17 per square foot. The land parcel is comprised of 38,580 square feet, which calculates site coverage of 10.37%. Typically, industrial warehouses meet the 30% coverage area; therefore, the Respondent adjusts 25,435 square feet (.584 acres) of land by \$525,000 per acre to arrive at a value of \$306,552 for additional land. This adjustment changes the value per square foot for the subject building to \$270.81.

**Matters and Issues:**

[8] The Complainant identified two matters on the complaint form:

- Matter #3 - an assessment amount*  
*Matter #4 - an assessment class*

[9] Following the hearing, the Board met and discerned that these are the relevant questions which needed to be answered within this decision:

1. *How should the subject site be assessed? 'As if vacant' – without improvement, or 'as improved'?*
2. *If the subject is assessed 'as improved', what value should the improvement be assessed at?*
3. *Should an adjustment be made for additional or excess land?*

**Complainant's Requested Value:**

- \$740,000 on complaint form
- \$507,000 in disclosure document confirmed at hearing as the request

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

***Matter #3 - an assessment amount***

**Question 1 How should the subject site be assessed? 'As if vacant' – without improvement, or 'as improved'?**

***Complainant's position***

- [10] The Complainant explained that the building, at 4,000 square feet, is small in relation to the land, calculating 10.32% site coverage. Typically, properties in this area calculate site coverage of 30%, because the building(s) are larger. (C1 p. 4)
- [11] The Complainant contends that the building contributes no value to the property and therefore the property should be valued '*as if vacant*'. The land use designation [*LUD*] is Industrial-General [*I-G*] and the property should be valued at the Calgary Southeast *I-G* rate of \$525,000 per acre. (C1 p. 32)
- [12] The Complainant reviewed the document, "*Assessment Range of Key Factors, Components, and Variables – 2012 Industrial*", showing seven criteria for assessing industrial properties: Building Type, Net Rentable Area, Actual Year of Construction, Region/Location, Interior Finish Ratio, Site Coverage, and Multiple Buildings. The Complainant made specific note of the lack of consideration of the *LUD* when calculating an assessment.
- [13] The Complainant provided information on industrial land use designations, vacant land values, and influence adjustments. (C1 pp. 28-37) This information explained the *I-G LUD* of the

subject, the *LUD*'s of comparable properties, and provides insight on: vacant land values, calculation methodology, and influence adjustments.

- [14] The Complainant presented CARB 1277/2011-P decision to show how a similar circumstance was adjudicated. (C1 pp. 20-23) In that decision, the *CARB* determined that the building did not contribute value to the property and altered the assessment to land only, '*as if vacant*'.

### ***Respondent's position***

- [15] The Respondent provided information regarding property valuation methodology and defined terms used during this hearing. (R1 pp. 4-5, and 45)
- [16] The Respondent showed maps and photos to demonstrate that the subject's building is a solid structure built with a brick exterior that is heated and has electrical service. (R1 pp. 7-10)
- [17] The Respondent drew attention to the Assessment Request for Information [*ARFI*] contained within the Complainant's disclosure. (C1 pp. 44-46) The *ARFI* shows lease revenue of \$13.67 per square foot for the entire 4,000 square foot building.
- [18] The Respondent presented CARB 0734/2012-P decision to show how the same building as adjudicated in 2011 (CARB 1277/2011-P) was adjudicated again. (R1 pp. 28-32) In that decision, the *CARB* determined that the building did contribute value to the property and confirmed the assessment '*as improved*'.

### ***Board's findings***

- [19] The Board finds that the building located on the subject property is a permanent structure utilised for office, storage, and garage space for an automotive sales business and does contribute value to the Complainant.
- [20] **The Board finds that the subject must be assessed '*as improved*'.**

### **Question 2 *If the subject is assessed 'as improved', what value should the improvement be assessed at?***

#### ***Complainant's position***

- [21] The Complainant argued that if the building has any value, it should be valued at the Respondent's prescribed rate for Industrial Outbuildings [*IOPS*], which is \$10 per square foot.
- [22] The Complainant provided maps, photos and other information for the subject and a comparable property to show that outbuildings typically assess at the requested \$10 per square foot. (C1 pp. 10-18)
- [23] In rebuttal, the Complainant showed the Board that the Respondent claims to provide access to comparables through the Internet but in fact displays different information publically than it presented during hearings. For example, the property located at 601 34 Avenue SE shows 4,560 square feet on the public record but is assessed at 4,000 square feet. (C2 p. 11 and R1 p. 16) Also 220 50 Avenue SE reports 8,000 square feet publically and 4,050 square feet at

hearing. (C2 p. 12 and R1. P. 16). Three more examples are within the rebuttal.

### ***Respondent's position***

- [24] The Respondent provided more details on the comparable provided by the Complainant. (R1 pp. 19-26) The photos show a temporary, unheated tent-like structure that is being assessed.
- [25] The Respondent indicated that by definition an outbuilding generally refers to structures that are any combination of unheated, non-insulated, without foundation, poorly constructed, or designed with atypically limited utility. (R1 p. 45)
- [26] The Respondent asserts the building located on the subject property is a permanent structure with brick block exterior walls, roof, foundation, heating and electricity.
- [27] The Respondent argued that in the Manchester Industrial area there are 136 fee-simple, single building improved properties. Within that population, 15% (~20) are between 3,000 and 5,000 square feet and 7% (~10) have site coverage equal to or lower than the subject. (R1 p. 3)
- [28] The Respondent listed six sales comparables to illustrate that the subject property's value of \$194.17 per square foot is within the lower range of comparable properties at \$181.04 to \$279.60 per square foot. (R1 p. 14)
- [29] The Respondent listed six equity comparables to illustrate that the subject property's value of \$194.17 per square foot is within the lower range of comparable properties at \$173.67 to \$270.26 per square foot. (R1 p. 16) All of these properties had assessed building areas between 3,300 and 4,080 square feet, site coverage of 6 to 12 percent (three reported at 30%), and were constructed between 1946 and 1968.

### ***Board's findings***

- [30] The Board finds that the building, located on the subject property, is a permanent structure and not an outbuilding; therefore, is assessable at its market value.
- [31] **The Board finds that the subject building assessment of \$194.17 per square foot is correct.**

### **Question 3 Should an adjustment be made for additional or excess land?**

#### ***Complainant's position***

- [32] The Complainant explained that the site is too small in comparison to other industrial properties in the area and cannot be subdivided to accommodate additional development. Furthermore, the location of the building, in front of the only access to the site, makes subdivision impossible.
- [33] The Complainant argued that an adjustment in the assessment for excess or additional land is speculation by the Respondent, and is not valuing the property as required within *the Act* and regulations.
- [34] The Complainant demonstrated, from past Respondent materials, how the assessor makes a

determination whether a property can be subdivided while maintaining the existing building (additional land) or whether the building's location prevents subdivision (excess land). The Respondent assigns 100% of the serviced land value if the land is additional and 60%, if it is excess. In response to a question, the Respondent acknowledges that there is no adjustment made for demolition of any built improvement or the costs to extend services to the site. (C1 p. 33)

***Respondent's position***

- [35] The Respondent reviewed the subject details and explained that when a property is located in an industrial area and has a building footprint below 30% site coverage (not 29% as presented in the Complainant's material), an adjustment is calculated. This adjustment recognises the value of the land not captured within the building value. (R1 p. 3)
- [36] The Respondent concluded that the subject could obtain another access on 1 Street SE and subdivide the property.

***Board's findings***

- [37] The Board finds that the Respondent must normalise properties to account for variances such as site coverage. The suggestion that additional or excess land is not recognising the characteristics and condition on December 31 is not accurate. A willing seller and a willing buyer would expect to value the property including the value inherent with additional or excess land.
- [38] **The Board finds that the subject property adjustment for additional land is correct.**

***Matter #4 - an assessment class***

- [39] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

**Board's Decision:**

- [40] **After considering all the evidence and argument, the Board determined that the subject's assessment is correct at a value of \$1,080,000, which reflects market value and is fair and equitable.**

DATED AT THE CITY OF CALGARY THIS 22 DAY OF November 2012.

  
J. Dawson  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1.	C1 Complainant Disclosure – 59 pages
2.	R1 Respondent Disclosure – 47 pages
3.	C2 Rebuttal Disclosure – 14 pages

*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.*

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Single Tenant	Cost/Sales Approach	Land Value
				Improvement Value