

**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:

***Artis Maynard Ltd., COMPLAINANT
As Represented by Fairtax Realty Advocates Ltd.***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
J. Rankin, MEMBER
J. Joseph, 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:	070027800
LOCATION ADDRESS:	1930 Maynard Road S.E.
HEARING NUMBER:	64284
ASSESSMENT:	\$25,360,000

This complaint was heard on 25th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *Syd Storey*

Appeared on behalf of the Respondent:

- *Christina Neal*

Procedural or Jurisdictional Matters:

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board and constituted to hear the matter. No jurisdictional matters were raised at the onset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

The Respondent raised a procedural issue related to the late filing of the Complainant's disclosure. The Complainant agreed that the document was not disclosed in accordance with Section 8 of the Matters Related to Assessment Complaints Regulation. The Complainant provided its initial evidence as an attachment to the Assessment Review Board Complaint form, and this was the basis of the material prepared and submitted by the Respondent. The Respondent was prepared to continue with the hearing provided that the Complainant was limited to discussing the material attached to the Complaint form. The Complainant agreed and the hearing proceeded on that basis.

Property Description:

The subject property is located in the southern portion of the Mayland Community, a light industrial/commercial area, at 1930 Maynard Road S.E.. The subject is a class 'A' office/warehouse constructed in 1965. It has a total of 153,808 square feet with about 20,000 ft² of office and the remainder warehouse space improved and used in part as laboratories. It has three tenants.

The property was assessed using an income approach.

Issues:

1. What is the appropriate rental rate for the subject property, to calculate its assessed value using the income approach?
2. What is the appropriate vacancy rate for the subject property, to calculate its assessed value using the income approach?

Complainant's Requested Value: \$17,116,751 (complaint form)
 \$19,357,835 (revised at hearing – Exhibit C2)

Board's Decision:

1. What is the appropriate rental rate for the subject property, to calculate its assessed value using the income approach?

The Complainant presented various third party real estate agency reports indicating that the rental rate for industrial buildings is in the \$6-\$7 per square foot range (Exhibit C1). In rebuttal, the Complainant presented the Rent Roll for the subject property to demonstrate that the most current lease, signed in 2005 by Siemens Canada Limited with a step up effective December 1, 2009, was at a rate of \$12.40/ft². More third party real estate reports were also presented in rebuttal to support a rate of \$12.50/ft².

The Respondent stated that the \$15.00/ft² rate applied to the office/warehouse assessment category and to the subject property is based on their data. No information was presented to support this statement. To support the assessment, the Respondent presented a RealNet report on the sale of the subject property, which occurred in September 2008 at a price of \$36,400,000. The Respondent argued that even if the market has softened between the sale date and assessment date (July 1, 2010), the assessment of \$25,360,000 is still substantially below the sale price (property was purchased in September 2008 for \$36,400,000). Therefore, the assessment does not overstate the value of the property.

Board's Decision:

The Board puts little weight on the third party data presented, as there was no explanation of how the various agencies do these surveys. Therefore, each agency has a slightly different range of values or average values. The use of third party data is appropriate as a check on data prepared by a party before the hearing, but is not sufficient evidence in and of itself. Furthermore, the third party survey data all indicated a rental rate for different classes of "industrial" properties. No evidence was presented for office/warehouse type properties.

The Respondent did not present any rental information, other than to indicate that the \$15.00/ft² is the rate that is applied to all properties in the office/warehouse assessment category.

The Board considered the Rent Roll information presented on pages 9 and 10 of Exhibit C1.

Based on the summary information on page 10 of Exhibit C1 (page 2 of this three page rent roll was not include), the current net rental rate being obtained by the building is \$16.21/ft². Given the very limited information provided to the Board regarding market lease rates, and noting that the actual lease rate is in excess of the \$15.00/ft² rate used by the City, the Board confirms the rental rate used by the City.

2. What is the appropriate vacancy rate for the subject property, to calculate its assessed value using the income approach?

The Complainant indicated that the 1.0% vacancy rate applied by the City to office/warehouse category was not correct and argued that a rate of 5% is more reflective of the market for this type of property. The basis of the Complainant's vacancy rate was various quarterly reports prepared by third party real estate reporting agencies indicating the vacancy rates for various classes of industrial buildings (Exhibit C1).

The Respondent presented a summary of its suburban office/warehouse vacancy analysis (page 72, Exhibit R1). There are a total of 32 properties in this category, with 29 responding to the survey. The subject property is one of the 29 properties in the study and showed a vacancy rate of 0%. The mean vacancy rate determined by the study is 0.67%. The assessed vacancy rate applied is 1.0%.

In rebuttal, the Complainant argued that the study included a range of building qualities, sizes, and uses. As a result, the study underestimates the actual (market) vacancy rate appropriate for the subject building. No alternative analysis was provided using this data (pages 1-2, Exhibit C2). The Complainant also provided additional third party reports indicating that the vacancy rate for industrial properties was over 5%.

Board's Decision:

The Board puts little weight on the third party data presented, as there was no explanation of how the various agencies do these surveys. Therefore, each agency has a slightly different range of values or average values. The use of third party data is appropriate as a check on data prepared by a party before the hearing, but is not sufficient evidence in and of itself. Furthermore, the third party survey data all indicated a vacancy rate for different classes of "industrial" properties. No evidence was presented for office/warehouse type properties.

The vacancy rate used by the City is supported by the City's vacancy rate study for this category of buildings. While the Complainant pointed out weaknesses perceived in the City's study, no alternative analysis was presented to support a 5% vacancy rate. The Board notes that the actual vacancy rate for the subject is 0%. The Board concluded that the appropriate vacancy rate is the 1.0% used by the City and supported by the vacancy rate study.

Board's Decision:

The Board confirms the assessment of \$25,360,000.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF SEPTEMBER 2011.



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Complaint Form Package
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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.*