

**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:

920189 ALBERTA LTD., COMPLAINANT
(Represented by Assessment Advisory Group Inc.)

and

The City Of Calgary, RESPONDENT

before:

Board Chair P. COLGATE
Board Member B. JERCHEL
Board Member E. REUTHER

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: 119010205

LOCATION ADDRESS: 4415 GLENMORE TRAIL SE

HEARING NUMBER: 64846

ASSESSMENT: \$5,130,000.

This complaint was heard on 7 day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Troy Howell, Assessment Advisory Group Inc. – Representing 920189 Alberta Ltd.*

Appeared on behalf of the Respondent:

- *Ian McDermott – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

The subject property is a 4.08 acre site in the South Foothills Industrial area, located at 4415 Glenmore Trail SE. Located on the site are a 1988 warehouse of 3,296 square feet, a 1998 warehouse of 9,500 square feet and a 1988 warehouse of 28,432 assessable square feet. The site has a Land Use designation of Industrial – General. Site coverage is 22.11% and an extra land adjustment has been made for 1.07 acres of additional land.

Issue:

The assessed value is not reflective of the property's market value
The assessment is incorrect assessed based upon an analysis of sales.

Complainant's Requested Value: \$3,800,000.00

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

Complainant's Evidence:

The Complainant submitted copies of the 2011 Property Assessment Notice and the 2011 Assessment Summary Report for the subject. (C1, Pg. 2-3) Also presented were location maps, aerial photographs indicating the subject's buildings and ground level photographs of the subject. (C1, Pg. 4-6)

Two sale comparable properties were provided to the Board in support of the Complainant's requested assessment change. The properties were located at 4315A 72 Avenue SE (Comparable 1) and 6215A 86 Avenue SE (Comparable 2). Comparable 1 is located in the Foothills Industrial area and Comparable 2 is located in the Wigmore Industrial area. (C1, Pg. 7-10)

The analysis (C1, Pg. 27) determines a revised square foot rate for each property. Comparable 1 is adjusted by a total percentage adjustment of -5%, individual adjustments of -5% for building size, -5% for site coverage and +5% for year of construction were noted. Comparable 2 is adjusted by a total percentage adjustment of +5%, individual adjustments of -5% for building size, +5% for site coverage and +5% for year of construction were noted. Based upon the analysis, the Complainant is requesting a rate per square foot of \$93.00 for a revised assessment of \$3,836,404 (41,228 square feet X 93.00)

The evidence submitted by the Complainant identifies the subject property having a B+ quality classification, while the two sale comparables are classified as C quality structures.

Additional evidence submitted by the Complainant included an outline of the AAG Valuation Methodology, only referred to in questioning, and excerpts from the "Warehouse Valuation Guide" Page 38 and an additional page concerning 'Figure 6. Form Whs3 – Example of Sales Adjustment Processx'. (C1, Pg. 11-12)

Also submitted as evidence for the Board was Composite Assessment Review Board Decisions – CARB 2077/2010-P, CARB 2093/2010-P, CARB 2103/2010-P and CARB 2086/2010-P, which the Complainant stated supported the adjustments made to the sale prices of the submitted comparable properties. (C1, Pg. 13-25)

Respondent's Evidence:

The Respondent submitted two ground level photographs of the subject property (R1, Pg. 9-10) and an Assessment Request for Information (ARFI) returned by the owner on May 13, 2010. (R1, Pg.11-17)

A 2011 Assessment Explanation Supplement was submitted by the Respondent which indicated rates per square foot ranging from \$104.00 to \$176.76 for the structures. The overall effective rate per square foot was \$124.59. (R1, Pg. 18)

The Respondent submitted sales comparables in support of the rate applied to the subject property. The first sale, for a multiple building property – 9415 48 Street SE – has a time adjusted sale price per square foot of \$141.00, to support the effective rate on the subject. Two additional sales – 7025 44 Street SE and 6503 30 Street SE – indicated time adjusted sale price per square foot of \$126.00 and \$207.00, again to support the individual rates per square foot applied to the subject property. (R1, Pg. 19)

The City of Calgary paper, "2011 Multiple Building Coefficient", was presented to indicated the "why and how" for the adjustment applied to properties with more than one building on the site. The adjustment is derived from an analysis of the thirty-six 2010 Decisions of the Assessment Review Board which indicated a reduction was applicable. For 2011 this adjustment is automatically applied to all multiple building properties. (R1, Pg.21-28) The Respondent included a decision – CARB 0855/2011-P – which confirms the City of Calgary has applied the adjustment for 2011. (R1, Pg 29-33)

The Respondent submitted the City of Calgary paper, "South Foothills Adjustment", which is applied in recognition of the lack of servicing in the area. The adjustment stems from nineteen 2010 decisions of the Assessment Review Board which indicated a reduction was applicable. The Respondent testified for 2011 this adjustment is automatically applied to all South Foothills

properties. (R1, Pg. 39-52)

The Respondent entered as evidence a single page of an appraisal report for 6215 86 Avenue SE prepared by Altus Group. It was the Respondent's opinion this appraisal put into question the validity of the sale and its uses as a comparable property by the Complainant. (R1, Pg. 53)

The Respondent presented a recent decision – CARB 1401/2011-P - , a Hearing in which the Assessment Advisory Group represented the Complainant, which addressed the use of percentage adjustments and the need for market evidence. (R1, Pg. 54-61)

The Respondent submitted two additional decisions – ARB 053/2010-P and ARB 1041/2010-P – which spoke to the presentation of evidence without the support of market evidence. (R1, Pg.69-76)

Findings of the Board

Complainant's Submission:

The submission of the Complainant raised a number of concerns for the Board. Of primary concern is the lack of market evidence or analysis of the percentage adjustment being applied to the sales. During questioning by the Board, the Complainant referred the Board to the AAG Valuation Methodology (C1, Page 11) and the Statement from the Appraisal Institute of Canada – “It is the appraiser's experience and judgement that is important,” and therefore there was no need to submit any evidence as to how the adjustments were derived.

This position concerns the Board as it seems to go against the intent of the Appraisal Institute of Canada and their position on determining values. Within the quoted passage (Appraisal Institute of Canada “Basics of Real Estate Appraising” 1994 Chapter 11 – The Direct Comparison Approach (VI) Types of Adjustment Pg 241) is another sentence which reads – “This should not diminish the importance of using mathematics to assist in the value judgement.” Additionally, the opening paragraph to the AAG Valuation Methodology states “our statistical analysis incorporated a measure of variance using coefficients of dispersion” which indicated to this Board analysis is conducted by the Complainant, who chooses not to submit this work.

Further the Board refers to the Complainants Submission on Physical Differences (C1, Page 12), which reads “Physical Differences such as superior height, a newer building, a better location, etc. must also be accounted for because they have an impact on the sale price. Establishing appropriated adjustments for these differences requires analysis of the sales data and stratifying sales into homogeneous classes”. Another reference from the same page states, “Adjustments to sales data should be completed on the basis of research and analysis of the data.”

It is the opinion of the Board any analysis of the sales should be submitted in support of the adjustments. With no analysis submitted, the Board is not prepared to accept the adjustments and the resulting change to the assessment.

The Board also notes there is no recognition for the differences in quality between the subject and each of the comparables, which would occur in standard appraisal technique. The

Complainant stated this was recognized in other adjustments, but the explanation received as to how the adjustments were determined did not appear to recognize this variable in the calculation. The Complainant had stated the calculation for coverage was a change of 5% for every 9% of difference between the subject and the comparable. Year of construction is adjusted at a rate of 5% for every 10 years of difference between the subject and the comparable. Building size adjustment is based upon an adjustment of 5% for every 7,000 square feet of difference between the subject and the comparable.

With respect to the Composite Review Board Decision of 2010, the 2011 Board is not bound by the Decisions of prior year's Boards, as each year is a new assessment with changing market conditions affecting the values. The Board may take guidance from past decisions with respect to physical conditions such as lot size or building areas, but must make its own decision with respect to the current year's assessment. The Board finds the Decisions provide little guidance as there is insufficient evidence contained in the Decisions to show how the Decisions were determined by the Boards or the evidence submitted at the hearings. The Board does take some guidance from the Decisions CARB 2077/2010-P, CARB 2093/2010-P and CARB 2086/2010-P when addressing the Respondent's submissions – specifically the statement – “the adjustments applied were not supported by evidence”. Although speaking to the Respondent, the rule is equally applicable to the Complainant. Adjustments, without evidence, carry less weight with the Board.

Respondent's Submission:

The Board notes on the ARFI returned by the owner there has been a hand written entry in the box identified as 'Value Information' there is an indication of a Market Value Appraisal Report being prepared June 15, 2009 with a Final Estimate of Value of \$5,500,000.00. However, no copy of the report has been submitted for the Board to review so little weight is placed upon this information.

The Board finds the rates applied to the subject property have been supported through sales comparables submitted by the Respondent.

The Board finds the Respondent has uniformly applied adjustments to the subject property with respect to multiple buildings on the site and the lack of services allowance applied to all properties located in the South Foothills Industrial area.

The Board does not accept the challenge to the Complainant's use of the sale on 6215 86 Avenue SE. The document shows only that an appraisal had been prepared on the property but fails to show the sale price was not an arm's-length transaction.

Board's Decision:

The Board finds the Complainant has presented insufficient evidence to support the requested assessment changes.

The Board confirms the assessment at \$5,130,000.00

DATED AT THE CITY OF CALGARY THIS 25 DAY OF October 2011.



Philip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse – Single Tenant	Cost/Sales Approach	-Land and Improvement Comparables

LEGISLATIVE REQUIREMENTS

MUNICIPAL GOVERNMENT ACT

Chapter M-26

1(1)(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;

Division 1 Preparation of Assessments

Preparing annual assessments

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

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,

ALBERTA REGULATION 220/2004 Municipal Government Act MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION

1(f) “assessment year” means the year prior to the taxation year;

Part 1 Standards of Assessment Mass appraisal

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.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.