

**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:**

***Big Rock Brewery Operations Corp. (as represented by Altus Group Limited),***

**COMPLAINANT**

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***B. Horrocks, PRESIDING OFFICER***

***K. Coolidge, MEMBER***

***B. Bickford, 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 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>117007401</b>
<b>LOCATION ADDRESS:</b>	<b>5555 76 AV SE</b>
<b>HEARING NUMBER:</b>	<b>68583</b>
<b>ASSESSMENT:</b>	<b>\$16,250,000</b>

This complaint was heard on the 9th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4

Appeared on behalf of the Complainant:

- Mr. R. Worthington (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. K. Buckry (City of Calgary)

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

[1] There were no concerns with the Board as constituted.

[2] There were no preliminary matters. The merit hearing proceeded.

[3] There was a procedural issue raised by the Complainant during the hearing when the Respondent referenced a Realnet report on the "Non-Arms length" sale of the subject property dated September 29, 2009 and included in the Respondent's Disclosure (R-1) on page 20.

[4] The Complainant submitted that on March 30, 2012 it had submitted a request for information relative to the subject property assessment to the City of Calgary, under Sections 299 and 300 of the Municipal Government Act (MGA). Specifically the Complainant requested "Any sales ARFI's or other ARFI's (if applicable) in relation to the subject property" and "The 5 most comparable sales transactions used to determine the subject assessment", amongst other things. The Complainant submitted the Realnet report of the "Non-Arms length" sale was not included in the City of Calgary response. The Complainant cited Section 9(4) of Matters Relating to Assessment Complaints Regulation (MRAC) and requested the Board not hear any evidence with respect to the "Non-Arms length" sale of the subject.

[5] The Respondent submitted that The City of Calgary's response to the sections 299 & 300 request was included in the Complainant's Disclosure on page 122 of C-1. The Respondent submitted the Complainant had requested the "5 most comparable sales transactions used to determine the subject assessment" and that the Realnet report was not used to determine the subject assessment, but rather, it was an indicator of value and that it supports the assessment. In response to the question, "how did the report come to you", the Respondent replied "the report is available on the internet."

[6] The hearing was recessed for the Board to consider the representations of the parties, the request and the cited legislation. The Board found:

- (a) The Realnet report was not specifically requested by the Complainant in its request.
- (b) The Realnet report is available in the public realm.
- (c) The Realnet report was not used to determine the subject assessment.
- (d) The Realnet report could remain in the Respondent's Disclosure without prejudice to the Complainant.

[7] The Board concluded the Realnet report would remain in the Respondent's Disclosure and the Board would place the appropriate weight on same, in its deliberations.

**Property Description:**

[8] The subject property, locally known as the Big Rock Brewery is a 14.394 acre parcel located in the Great Plains Industrial Park in SE Calgary. The site is improved with 3 assessable buildings that were constructed in 1996 and contain a total net rentable area of 133,003 square feet (SF) resulting in a site coverage of 20.18%. The subject is assessed at \$16,250,000 utilizing the cost approach to value.

**Issues:**

[9] The Assessment Review Board Complaint form contained 23 grounds for the Complaint. At the outset the Complainant advised the subject assessment is inequitable and the subject should have been valued using the sales comparison approach versus the cost approach.

**Complainant's Requested Value:**   \$ 8,590,000 (Complaint Form)  
   \$13,530,000 (Hearing)

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

**Issue:** Is the subject property inequitably assessed?

[10] The Complainant's Disclosure is labelled C-1.

[11] The Complainant, at page 7, provided a table titled Comparable Properties which contained property details of 5 equity comparables with assessments per square foot (Asmt PSF) ranging from \$84 to \$89 and a median of \$86 PSF. The Complainant submitted the 2 best comparables are located at 5555 78 AV SE and 5600 76 AV SE, adjacent to and on the north and the south side of, the subject property. These two comparables are cold storage warehouses that were previously assessed using the cost approach and are currently assessed using the sales comparison approach (industrial warehouse sales model). The Complainant submitted the subject is similar in most respects to the cold storage warehouses and therefore should be assessed using the warehouse model.

[12] The Complainant submitted if the subject property had a site coverage of 30%, which is typical in the model, the total assessed value would approximate \$86 PSF. However, the subject property has site coverage of 20.18% and therefore would require an excess land adjustment.

[13] The Complainant, on page 8, calculated the value of excess land to be \$2,101,504, which when added to the \$11,438,258 value of the remaining assessable building area (calculated at the rate of \$86 PSF) yields a total assessment value of \$13,539,762, in support of its request for an assessment of \$13,530,000.

[14] The Complainant, on pages 18 through 31, provided pictures of the interior of the subject property to demonstrate that it is a typical warehouse.

[15] The Complainant, at pages 33 through 35, provided the measurements for the subject improvements as prepared by the City, noting the improvements were described as office/retail, warehouse and warehouse. Similarly, the Marshall and Swift calculations prepared by the City, identified the improvements as office building, light manufacturing and storage warehouse.

[16] The Complainant, at page 62, provided the Property Assessment Public Report for the comparable located at 5555 78 AV SE, noting the 2012 assessed value was \$16,620,000 utilizing the cost approach, which was amended to \$17,400,000 in January 2012, and ultimately corrected to \$12,140,000 in July 2012. The Complainant, on page 71, noted this property had been assessed at \$16,495,125 in 2011 utilizing the cost approach.

[17] The Complainant, at page 75, provided the Property Assessment Public Report for the comparable located at 5600 76 AV SE, noting the 2012 assessed value was \$30,480,000 utilizing the cost approach, which was amended to \$15,860,000 in January 2012. The Complainant, on page 84, noted this property had been assessed at \$30,430,000 in 2010 utilizing the cost approach. The Complainant concluded that changing the value approach from cost to sales comparison had resulted in reduced assessments for the two comparables.

[18] The Respondent's Disclosure is labelled R-1.

[19] The Respondent, at page 8, provided revised building footprint information for the comparable located at 5555 78 AV SE which would reflect a change in the site coverage of the comparable from 28.73% to 41.36%.

[20] The Respondent in response to the Complainant's evidence, at page 9, provided a "What if scenario" for the Complainant's two best comparables to demonstrate that if the site coverage was changed to 20.2% (the same as the subject), the resulting per square foot values would increase, and range from \$105.37 to \$112.37.

[21] The Respondent, at page 11, provided information with respect to the "South Foothills Adjustment", noting that the Complainant's comparable located at 5300 86 AV SE is in South Foothills and as a result would have received a negative adjustment and should therefore not be considered comparable to the subject property.

[22] The Respondent, at page 20, provided a Realnet report on the sale of the subject property, on September 29, 2009, noting the sale was "Non Arms length", and submitted it was an indicator of value and supports the assessment. This is the report that gave rise to the procedural issue identified earlier in this decision.

[23] The Complainant, in rebuttal (C-2), provided all of the industrial sales included on the City of Calgary website noting the "Non Arms length" sale of the subject is not included in the industrial warehouse model and is therefore not considered market value.

[24] The Complainant, in rebuttal (C-3), provided information regarding the local improvement levy for properties in South Foothills to demonstrate there were no levies registered on its comparable located at 5300 86 AV SE.

[25] The Complainant argued that it had established a *prima facie* case and therefore the onus was on the Respondent to defend the assessment. He submitted the Respondent had provided no evidence to support the assessment. He concluded that if its two best comparables are found to be comparable by the CARB, then the best evidence has been submitted by the Complainant.

[26] The Board finds the subject property is a warehouse and should be equitably assessed utilizing the sales comparison approach (the model) to ascertain the assessed value. The Board did not find the "Non Arms length" sale of the subject property, provided by the Respondent, a reliable indicator of value and placed little weight on it..

[27] The Board finds that the Complainant provided sufficient evidence by the way of description and photographs to establish the similarity between the subject property and the cold storage units, therefore the sales comparison approach is the preferred method for evaluation of the subject. The Board accepts the rate of \$86 PSF as applicable to the subject with an excess land calculation of \$2,101,504 to yield a value of \$13,539,762.

**Board's Decision:**

[28] The 2012 assessment is reduced to \$13,530,000.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF NOVEMBER 2012.

  
B. Horrocks  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal
4. C3	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.*

**For Administrative Use**

<b>Subject</b>	<b>Property type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-issue</b>
CARB	Warehouse	Warehouse Single Tenant	Sales Approach	Equity