

**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:

***Diversified Staffing Services Ltd (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***M. Vercillo, PRESIDING OFFICER
A. Wong, MEMBER
I. Fraser, 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: 067044693
LOCATION ADDRESS: 503 7 ST SW
HEARING NUMBER: 64547
ASSESSMENT: \$11,990,000

This complaint was heard on the 31st day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *S. Sweeney-Cooper*

Appeared on behalf of the Respondent:

- *D. Grandbois*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject property is a downtown office property located in the downtown east commercial core (DT2E) of SW Calgary. According to the information provided, the property contains one building that was constructed in 1968 with a net rentable area of 30,124 square feet (SF). The building is situated on a 0.95 acre or approximately 41,526 SF site and has a Downtown Business land use designation.

According to the information provided by the Respondent, the subject is assessed as though vacant land using the highest and best use principle. Therefore, the Respondent applied the Direct Sales Approach to value the land applying a rate of \$275.00 per SF with a 5% increase to account for the fact that the subject property has a positive corner lot influence.

Issues:

There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issue:

- 1) The subject property should be assessed on the Income Approach instead of highest and best use.

Complainant's Requested Value:

\$8,992,500 on the complaint form revised to \$6,030,000 at this hearing.

Board's Decision in Respect of Each Matter or Issue:**ISSUE 1: The subject property should be assessed on the Income Approach instead of highest and best use.**

The Complainant provided a document entitled "Evidence Submission of the Complainant" that was entered as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- A copy of CARB decision # 1597/2011-P that was recently completed and in support of using the Income Approach versus the Direct Sales Approach based vacant land sales using the highest and best use principle.
- A photograph and a few overhead maps of the subject relative to its surrounding properties. The photograph indicated that the subject property is a single story office building surrounded by multi-story office buildings. The building is currently occupied by Diversified Staffing Group, but was formerly the premises of the Calgary Real Estate Board.
- The 2011 Business Assessment Notice of the subject. The notice indicated that the subject's business assessment was based on 38,849 SF.
- A chart entitled "2011 Assessment Equity". The chart provided 9 equity comparables of downtown properties in reasonable proximity to the subject that were assessed using the Income Approach to value. The assessments were of 'C' class properties, like the subject, and were assessed using an \$11 rental rate and a 9.25% capitalization rate (cap rate). The rentable areas of the comparables ranged from 37,168 SF to 257,060 SF. The assessments per SF ranged from \$83.15 per SF to \$123.10 per SF with an average of \$100.67 per SF and a median of \$94.99 per SF. The CARB noted that the chart provided no information with respect to the land area of each comparable.
- A year over year change in the assessments of downtown property comparing 2010 assessed values to 2011 assessed values. The chart noted that properties assessed on the Income Approach enjoyed a median 51% reduction in assessed values from 2010 to 2011. In comparison, the Complainant noted the subject only received a 5% reduction in assessed value from 2010 to 2011. The Complainant argued that based on this inequity, the subject's assessment should be based on the Income Approach.
- Various charts from the City of Calgary in support of an \$11.00 assessment rate for downtown 'C' class property, a 12% assessed vacancy rate, a 9.25% assessed cap rate and a \$15.00 per SF assessed operating cost.
- A chart of 5 downtown vacant land sales. The chart provided information on downtown land sales that occurred in 2009 and 2010. The chart determined that the median sale price per SF of the 5 comparables was \$200.02 per SF. Based on this rate the subject should be assessed at \$8,305,000. The Complainant argued that the median sales price per SF of the 5 comparables disproves the \$275 land rate used by the Respondent and provides justification for assessing the subject on the Income Approach.
- An excerpt from a "Highest and Best Use Student Reference Manual". The manual is authored by the International Association of Assessing Officers and used for training purposes. The Complainant quoted a section of the manual that stated; "...the market value established is an assessment that should really reflect its highest and best of the property in the immediate future. This time frame constraint tends to eliminate the speculative element from a highest and best use analysis in the assessment valuation...." The Complainant concluded that the subject should therefore be assessed in its current use as an income producing office and not in the speculative nature of its

land use. It was noted by the CARB during questioning that the manual also stated that; "In some assessment jurisdictions the law requires the assessor to appraise certain property at its current use, not its highest and best use".

- The Complainant concluded her analysis by applying the Income Approach to value the subject using 38,849 SF, applying a rental rate of \$11.00 per SF, a 12% assessed vacancy rate, a 9.25% assessed cap rate and a \$15.00 per SF assessed vacancy shortfall allowance, to arrive at the requested assessment of \$6,030,000.

The Respondent provided a document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A copy of CARB decision # 2185/2010-P. The decision pertained to last year's appeal of the subject property in the same issue. In that decision, the CARB denied the appeal of the Income Approach issue and affirmed the principle of highest and best use in assessing the subject on the basis the sales comparison approach using vacant land rates.
- A chart of the 9 equity comparables provided by the Complainant that were assessed using the Income Approach to value. The chart provided information on the parcel sizes of the comparables that was missing in the Complainant's presentation. The parcel sizes of the comparables ranged from 8,985 SF to 24,583 SF. The assessed building areas varied in size from 39,761 SF to 264,912 SF. The purpose of the chart was to compare the Floor Area Ratios (FAR) of the Complainant's comparables to the subject. The median FAR of the comparables was 6.46, while the subject FAR is 0.94. The Respondent concluded that the FAR of the subject is far different from the other properties and requires a different approach to value to capture its highest and best use.
- The Respondent argued that the value of the subject property resides in its development potential and not in its current use as an underdeveloped small office and its current income generating potential.

The CARB finds the following with respect to this issue:

- That the Complainant's request to value the land in its current use is not supported by her evidence. It was noted by the CARB during questioning that the manual also stated that; "In some assessment jurisdictions the law requires the assessor to appraise certain property at its current use, not its highest and best use". This is not the case in Alberta.
- That the land value as calculated by the Complainant is greater than her requested value. The CARB can find no merit in this paradox and this would tend to support the principal of highest and best use.
- That the subject's FAR of 0.94 is much less than the FAR's of the comparables put forward by the Complainant. This would lend support the Respondent's assertion that the subject is underdeveloped.

Board's Decision:

The complaint is denied and the assessment is confirmed at \$11,990,000.

The Complainant failed to substantiate her requested assessment through argument or evidence. Given the evidence presented by both parties, the CARB finds that the subject property is equitably assessed with due consideration to its development potential.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF SEPTEMBER 2011.

A handwritten signature in black ink, appearing to be "John D. [unclear]", written over a grey rectangular stamp.

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.*