

**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:**

***Mancal Properties Inc (as represented by Altus Group), COMPLAINANT***

**and**

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

**before:**

***D. Trueman, PRESIDING OFFICER***

***Y Nesry, MEMBER***

***J. Rankin, 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: 078076403**

**LOCATION ADDRESS: 3201 Ogden Rd. SE.**

**HEARING NUMBER: 63276**

**ASSESSMENT: \$22,580,000**

This complaint was heard on third and fourth day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *D. Mewha*
- *R. Worthington*

Appeared on behalf of the Respondent:

- *M Berzins*
- *I McDermott*

### **Background**

This hearing began with the Complainant advising the Board that the agenda for hearings this week contained generally larger industrial warehouse properties. In respect of this he advised the panel that he had prepared evidentiary documents that would be common to most of the hearings that the panel would make throughout the week. He said that these documents pertained to an Income Approach to value which he said was more appropriate, for valuation purposes, than the Direct Sales Comparison Approach used by the assessor. The Respondent accepted this document submission and agreed that such evidence had been exchanged. Given that past procedures have referenced this type of common information as “generic” the panel firstly received documents which were marked as complainant exhibits GC 1, GC 2 , which related to the Complainant’s capitalization rate argument and documents, GC 3, GC 4 and GC 5, which were rebuttal evidence, all of which would be used accordingly when referenced throughout the following series of hearings. The parties agreed that argument would be heard with respect to these documents, during this hearing, and that these comments would be carried forward to the remainder of the hearings on this agenda.

As a final housekeeping matter it was agreed by the parties that two of the roll numbers on the agenda for the week pertained to commercial retail properties and that given the anticipated length of the hearing time required they should be moved to another hearing venue.

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

The parties agreed that there were no procedural or jurisdictional matters prior to the commencement of this hearing.

### **Property Description:**

The subject property is a single-story, multi-tenanted, industrial warehouse building, constructed in 2007 and located in the central Alyth/Bonnybrook district. The building contains 195,585 ft.<sup>2</sup> of leasable area and is located on a land base of 10.11 acres. It is listed as having 0% office finish.

**Issues:**

A variety of issues were described on the original complaint form however at hearing the panel determined that the issues are:

- 1/ Does the Complainant's Income Approach yield a more convincing value conclusion than the assessor's Direct Sales Comparison Approach?
- 2/ Has the requirement of equity with similarly assessed properties (fairness) been achieved with the current assessment amount?

**Complainant's Requested Value:** \$16,180,000

**Complainant's position**

Issue #1 The Complainant advised the panel that there have been too few recent sales of industrial properties, in the City of Calgary, for the assessor's model to have the required accuracy. Central to the Complainant's position, that an Income Approach to value was better, was his need for data supporting appropriate capitalization rates. To this end the Complainant supplied his document entitled "Industrial Capitalization Rate Analysis, 2011 Assessment Year" which was identified as exhibit GC 1. Sales of eight industrial properties, which occurred through the period July 2009 to January 2010, were of buildings from which he was able to obtain "stabilized" data representing "fee simple" transactions. These yielded capitalization rates ranging from 7.39% to 10.30%. The Complainant then segregated these eight sales according to their year of construction, in the belief that their ages would demonstrate commonality in values. The average capitalization rate for the entire grouping of eight sales was 7.96% however once grouped according to their age, selecting a demarcation year of 1995, there were indications that buildings constructed before 1995 suggested a capitalization rate of 8.25% and buildings constructed subsequent to 1995 suggested a capitalization rate of 7.75%. He also supplied what he purported to be a third-party appraisal report in support of the foregoing contention. The Complainant conceded that there were other sales that could have been included in the foregoing analysis however, there was insufficient verifiable income data available for those other properties to produce meaningful results. Final support for his foregoing capitalization rate conclusions was provided in chart form, entitled "long term capitalization rate trending comparison for industrial sales >100,000 ft.<sup>2</sup> from December 2006 to July 2010". The Complainant testified that this chart confirmed that once income levels had been stabilized to current, and sale prices had been adjusted for market conditions, then his capitalization rate conclusions of 8.25% for older buildings and 7.75% for newer buildings accounted for all other investment characteristics. GC 2 provided the Board with rental rate information in the form of rent rolls from various properties to be referenced throughout the hearings together with material describing the application of and supporting the use of the Income Approach to Value. Document GC 3 is rebuttal evidence with respect to the City's use of multiple roll numbers and addresses in support of their assessment. This mainly consisted of former Composite Assessment Review Board decisions supporting Complainant positions

together with published assessment methodology and legal argument embracing the use of such methodology. Document GC 4 is a rebuttal document which refutes the City's sales comparables and is entitled Global Market Performance. This document graphs the S&P/TSX and the Dow Jones industrial averages through the 2007 to 2010 timeframe. Using these numbers to time adjust sale prices the Complainant is able to show that the Assessment to Sales Ratios (ASR) for the City comparable sales used in their assessments, on a sale by sale or individual basis seldom yields acceptable or legislated ASR's. Finally, GC 5 is evidence that the City's use of the comparable sales at 4141 110<sup>th</sup> Ave. SE. is incorrectly analyzed because the sale actually consisted of two separate buildings.

With respect to the subject property the Complainant referenced rental information throughout his presentation, which also included documents labelled C1, C2, C3 and C4 and at page 11 of C1 presented information regarding seven leases, four of which were from the subject property and which he argued demonstrated a current market lease rate of \$6.75 per sq. foot, per year, for the subject property. He testified that this relatively low lease rate was essentially due to the central location of the subject property in the City of Calgary; whereas higher lease rates are generally being achieved in the newer Southeast and Northeast industrial sections of Calgary. The Complainant testified that a 5% vacancy rate was generally accepted for vacancy, into which was buried an allowance for non-recoverable items as well as structural maintenance. At page 12 he provided a valuation calculation using his previously determined rate of 7.75%, based upon the age of the subject property, resulting in a value conclusion of \$16,183,081. Rounded, this supported his requested assessed value of \$16,180,000.

Issue #2 At page 15 of C1 the Complainant presented a chart of 11 properties which he said were comparable to the subject, two of which were in the same general neighbourhood, all of which demonstrated assessed values of roughly \$94 per sq. foot. If applying an assessment per square foot of \$94.20, an assessment value for the subject property of \$18,424,107 was indicated and this, according to the Complainant, was further support for his requested Income Approach assessment.

### **Respondent's position**

The Respondent presented his evidence which was labelled as exhibit R 1. He firstly pointed out his legislated mandate to adopt a valuation methodology of his choice. He argued that the Complainant's capitalization rate conclusions were flawed because, his study sample was too small and as well, the properties used in some cases lacked comparability with his subject. He further said that although information published by industry experts is too general to be relied upon, the Colliers report at page 106 of R 1 would not have varied so greatly from the Complainant's conclusions had the Complainant's analysis been correct. He said that he would be presenting sales comparables, which in each case would support his assessment and he said that equity comparables which he would present also supported his contention that his assessments were fair representations of market value. Finally the assessor presented at page 17 of R 1 a list of 95, 2011 CARB decisions, which had confirmed assessments, and this according to the assessor, was support for his methodology.

Issue #1 At page 15 the Respondent presented four sales comparables which demonstrated a median value of \$121 per sq., foot thus supporting the subject assessed value of \$115 a square foot. The Respondent went on to further explain that the subject had received, within his assessment model, a variety of reducing factors which accounted for the subject's site

coverage, location, multi-tenanted feature and percent finish.

Issue #2 The Respondent provided a chart of the Complainant's equity comparables and pointed out that in his opinion several were inferior comparables, essentially because of the areas in which they were located. He further presented a chart at page 14, of equity comparables selected by the City, in particular pointing to the property at 1226 - 26 Avenue SE as being particularly instructive in support of his assessment

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

The Board is unable to agree with the Complainant that a capitalization rate conclusion from a grouping of properties, regardless of the size of group or chronological ages of comparables will yield a capitalization rate necessarily applicable to any given subject property. The Board is mindful that such an approach may be utilized by the assessor in keeping with his legislated mandate for mass appraisal however, cannot consider it appropriate for a Complainant, with his site-specific request. That said, the Board nevertheless points out that each complained property value could be better served with the data presented by the Complainant than the Direct Sales Comparison Approach presented by the Respondent, depending on the circumstances.

Issue#1 The Board considered the evidence of the Complainant with respect to the current rental rate achieved in the subject neighbourhood, generally in the range of \$7 a square foot per year. In contrast, a variety of leases in the newer northeast industrial districts were examined and it was discovered that current leases in the \$8-\$10 a square foot range were commonly demonstrated. The appraisal Institute of Canada teaches that, in paraphrase, 'the income level that a property is capable of achieving is the best indicator of its quality and condition'. This would include location considerations. The Board next considered the sales comparables presented by the Respondent and noted that three were located in the southeast quadrant and one was located in the northeast region. They were similarly sized however one was listed as a single user property and two demonstrated finished area in the range of 1/3 to 1/2 of the building size. The Board were thus unable to agree with the comparability of these properties and in recognition of the Complainant's reasonable rental rate evidence, elected to rely upon the most recent lease in the subject property of \$7 a square foot, as the best indication of the quality and condition of the subject property. This lease is recognized as slightly post facto, at October 1, 2010 however, it is supported by a lease in a neighbouring property at \$7.88 per square foot. It is also supported by the general average of neighbourhood leases presented at \$6.92 a square foot. Inasmuch as the Board disagreed with the comparability of the Respondent comparable sales; and, given that the Respondent did not present his version of the Income Approach to Value, it was decided to rely upon the Complainant Income Approach. Applying a \$7 a square foot rental rate and a 5% vacancy/expense allowance together with accepting the Complainant's 7.75% capitalization rate, a market value of \$16,782,454 is indicated. This is rounded to \$16,780,000.

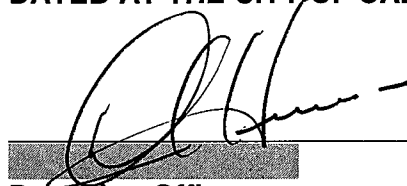
Issue #2 The landmark Bramalea decision instructs that the question of equity is considered when the range of values in which the assessment amount exists lies outside of the range of values in which the market value conclusion exists. Given that the assessment amount is \$22,580,000 and the proposed assessed amount is \$16,780,000 a sufficient disparity exists that the Board must consider the assessments of similar properties as presented by the parties. It was discovered that the only equity comparable the Respondent was able to provide in the subject neighbourhood was that of the subject itself. On the other hand, the Complainant was

able to provide an equity comparable, in the subject neighbourhood of Bonnybrook, at 2204 Portland St. SE., in support of his requested assessment amount. All other equity comparables presented by either party, were in different neighbourhoods. Given the foregoing the Board decided that the equity comparables presented by the Complainant was the better evidence and that a reduction in assessment was warranted.

**Board's Decision:**

The assessment for 2011 is reduced to \$16,780,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF November 2011.



\_\_\_\_\_  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. GC 1	Complainant "Generic" Disclosure
2. GC 2	" " "
3. GC 3	" " Rebuttal
4. GC 4	" " "
5. GC 5	" " "
6. C1	Complainant Disclosure
7. C2	" "
8. C3	" "
9. C4	" "
10. 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	Whse Multi-tenant	Valuation Approach	Lease rate