

**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:

BFI Canada Inc.
(as represented by Assessment Advisory Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J. Krysa, PRESIDING OFFICER
S. Rourke, MEMBER
P. Pask, 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:	096022496
LOCATION ADDRESS:	5566 54 Ave SE
HEARING NUMBER:	64789
ASSESSMENT:	\$3,010,000

The complaint was heard on September 19, 2011, in Boardroom 4 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- T. Howell

Appeared on behalf of the Respondent:

- A. Cornick

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

Property Description:

The subject property is assessed as a 1.95 acre parcel of land, improved with a 20,600 sq.ft. (square foot) single-tenanted, industrial warehouse structure constructed in 1992. The property has a building to land ratio of 24.27%.

Issues:

The Complainant raised the following matter in section 4 of the complaint forms:

3. an assessment amount

The Complainant set out 2 grounds for the complaint in section 5 of the complaint form with a requested assessment of \$2,600,000.

However, at the hearing the Complainant led evidence and argument only in relation to the following issue:

- The assessed value is incorrect, and fails to meet the legislative standard of market value.

Complainant's Requested Value:

At the hearing, the Complainant requested that the subject property be assessed at \$2,470,000.

Parties' Positions:

The Complainant argued that recent sales of similar properties indicate that the assessment of the subject property exceeds its market value.

In support of the argument, the Complainant submitted three sales of industrial warehouses that exhibit a range of unadjusted sale prices from \$73 to \$116 per sq. ft. in contrast to the subject's assessment at \$133 per sq.ft.

The Complainant further applied adjustments for building size, site coverage, and year of construction to the three sale prices to reflect the characteristics of the subject property, from which the Complainant established an average rate of \$110 per sq.ft., and an estimate of market value for the subject property of \$2,474,807; (22,600 sq.ft. x \$110 per sq.ft.), as summarized below: [C1, pp.11-15, 33]

Address	Sale Date	Sq.Ft.	Sale Price	Sale Price per sq.ft.	Net Adjustment	Adjusted Sale Price per sq.ft.
2840A 58 Ave SE	Apr-10	19,500	\$ 1,425,000	\$73	5%	\$77
5920 35 St SE	Apr-10	28,000	\$ 3,250,000	\$116	15%	\$133
3528 80 Ave SE	Sep-09	19,780	\$ 1,950,000	\$99	20%	\$118
Average						\$110

In cross examination, the Complainant conceded that there was no market evidence in support of the adjustments applied to the sale prices of the comparables; however, the Complainant argued that the adjustments are transparent, and the process is not an exact science that requires precise documentary support. The Complainant further submitted that the Respondent's criticism is moot, as the Respondent has made no adjustments to his time adjusted sale prices to reflect the physical characteristics of the subject property.

In response to the Complainant's evidence, the Respondent argued that the Complainant's adjustments to the sales comparables were subjective, and were not supported by market evidence. The Respondent further argued that the sale of 2840A 58 Ave SE would require further adjustment to reflect the sale / leaseback arrangement, and the \$160,000 capital expenditure required at the time of sale for roof repairs as detailed in the sale questionnaire related to the sale. [R1, pp.17-20]

In support of the assessment, the Respondent submitted seven industrial property sales that transferred between November 2007 and June 2010, and exhibit a range of time adjusted sale prices from \$131 to \$246 per sq. ft. in contrast to the subject's assessment at \$146 per sq.ft. The Respondent argued that the November 2007 sale of 7940 56 St SE, at \$134 per sq.ft., is the best comparable for the subject property, and submitted that it is slightly inferior to the subject and therefore supports the subject's \$146 per sq.ft. rate of assessment. [R1, p.14]

Board's Decision:

The Board finds that there was insufficient evidence to demonstrate that the assessed value is incorrect, or fails to meet the legislative standard of market value.

The Board notes that the parties relied upon different improvement areas for the subject property, resulting in different rates per sq.ft. of assessment, as set out below:

Reference	Assessment	Improvement Size (sq.ft.)	Assessment per sq.ft.
C1, p.33	3,010,000	22,600	\$ 133
R1, p.14	3,010,000	20,600	\$ 146

As neither party inspected the property nor provided evidence to confirm the improvement size, the Board will rely on the parties' evidence to support their particular rate per sq.ft. value conclusions.

The Board did not find the Respondent's sales supportive of the subject's assessment. The sale of 7940 56 St SE at \$134 per sq.ft., deemed most comparable by the Respondent, exhibits a value indication approximately 9% lower than the subject's \$146 per sq.ft. rate of assessment, without market evidence in support of the difference. The Respondent's remaining sales, exhibiting a wide range of sale prices from \$131 to \$246 per sq.ft., illustrate that the properties are dissimilar amongst themselves, therefore they cannot each be a valid comparable for the subject property without adjustments, which the Respondent failed to provide.

Although the Board agrees that the Complainant's sale price adjustments are subjective and therefore constitute opinion evidence, in the absence of any market evidence from the Respondent to refute the Complainant's opinion, the Board infers that the adjustments are not inappropriate for the characteristics set out. Nevertheless, the Board was not persuaded by the Complainant's adjusted sale of 2840A 58 Ave SE, as the sale questionnaire in the Respondent's evidence indicates that the property required significant capital expenditures at the sale date, and the sale was also subject to a leaseback agreement which may have impacted the sale price. Excluding this sale from the Complainant's analysis, the average rate of the two remaining adjusted sales equates to \$125.50 per sq.ft.; approximately 5% less than the Complainant's calculated rate of assessment of \$133 per sq.ft., and within the expected tolerances of a mass appraisal valuation.

The assessment is **confirmed** at: **\$3,010,000.**

DATED AT THE CITY OF CALGARY THIS

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DAY OF NOVEMBER, 2011.



J. Krysa
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Submission
2. R1	Respondent's Submission

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	Single Tenant	Sales Approach	