

**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:**

***LOBLAW PROPERTIES WEST INC. (as represented by ALTUS GROUP LIMITED),  
COMPLAINANT***

**and**

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

**before:**

***L. Patrick, PRESIDING OFFICER  
I. Fraser, MEMBER  
D.Cochrane, 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>101017002</b>
<b>LOCATION ADDRESS:</b>	<b>222 58 AV SE</b>
<b>FILE NUMBER:</b>	<b>66377</b>
<b>ASSESSMENT:</b>	<b>\$10,780,000</b>

This complaint was heard on the 22nd 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:

- J. Weber  
M. Robinson

Appeared on behalf of the Respondent:

- R. Farkas

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

[1] There were no jurisdictional or procedural matters raised during the hearing.

**Property Description:**

The subject property is a 5.24 acre parcel with a 68,009 square foot building improvement. The building was constructed as an industrial warehouse development in 1955, located in Manchester Industrial - CE and is currently used as a retail facility operated under the name Real Canadian Wholesale Club. The assessed area consists of 63,289 square feet of retail area and 4,720 square feet of office area and is assessed as big box retail. The present zoning is Commercial – Regional 1.

**Issues:**

[2] Property Classification. Is it big box retail, industrial warehouse or class c supermarket retail?.

**Complainant's Requested Value:** \$6,390,000 or \$6,868,909 or \$8,200,000.

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

[3] Complainant's Position. The Complainant's first requested value of \$6,390,000 is based on the contention that the correct classification of the subject is industrial warehouse and that the correct approach to determining market value for such class is direct sales comparison. It is noted that the Respondent has changed the classification for the current tax year of 2012 from Industrial warehouse to big box retail and the approach for determining market value to the income approach. In addition to the reference to the historic classification the Complainant presented photographic evidence showing a low grade of finish on the interior and indicated that the current land use category requires an additional 65 parking spaces to reach a total of 284. The Complainant submitted 7 sales comparables, 2 each from the SE region and the NE region as well as 3 from the CE region where the subject is located. One of the CE region comparables is a neighbouring property. The range of sales values is \$64 to \$129. The median

TASP price per square foot derived from those sales is \$84.00 and is tendered in support of the requested value of \$6,390,000 or \$94 per square foot. The Complainant also provided assessment numbers for the sales comparables noting the range between \$74 and \$93 provided a median of \$89. The Complainant's second requested value of \$6,868,909 is based on the 7 equity comparables presented by the Complainant which equates to a median value of \$101 per square foot. The range of equity comparable values is \$88 to \$107 and the median assessment value is \$101. The third requested value of \$8,139,781 rounded to \$8,130,000 is based on an income approach with rental rates derived from using the C class supermarket rental rate of \$9 for the main as compared to the big box retail rate of \$12.50 used in the assessment and \$10.00 for the office level. The rest of the inputs being the same as the Respondent's inputs in calculating the assessment. Using the income approach provides the following values: main \$7,518,733, office \$566,400 plus an agreed land adjustment of \$54,648 for the total of \$8,130,000, rounded.

[4] Respondent's Position. The Respondent contends that the change in usage of the subject from industrial to retail has occurred over several years and has resulted in a change in the land use classification from industrial warehouse to CMO206 free standing big box retail. This change necessitates a change in the assessment approach from direct sales comparison to the income approach. The rental rate for the main used in the assessment is \$12.50 and is based on the minimum rate per square foot established by the City of Calgary for big box retail which includes such retail outlets as Army & Navy, Brick, Canadian Tire, Staples, among others as provided by the Respondent. The Respondent also provided 8 lease comparables for big box 40,000 – 80,000 square foot properties showing a range of \$11 to \$16.65 per square foot with a median of \$12.50 to support that rate as utilized in the assessments of the comparable big box group set out on page 17 of Exhibit R – 1. The Respondent submitted photographic evidence in support of the contention that the second floor is finished office space as opposed to mezzanine and thus is properly assessed at the rate of \$10 per square foot rather than a mezzanine rate of \$2 psf.

#### **Board's Decision:**

[5] The Board reduces the assessment to \$8,130,000.

[6] Reasons: The Board found that although the building had been an industrial warehouse there was clear evidence in the photographs that the use had changed and the land use change to CMO206 formally endorsed the change. There is a lack of some parking stall requirement as a result of this change however the Board notes this only results in a non-conforming use and not an attribute of the classification. This requires a change in assessment approach from direct sales comparison to the income approach used in big box retail assessment throughout the City of Calgary. The Complainant agrees that the income approach is correct for big box retail. The comparables provided by the Respondent in support of the \$12.50 rental rate for the main floor were in many cases purpose built big box stores such as Brick, Canadian Tire, and Home Outfitters and contrast considerably in age and to the condition and finish of the subject as set out in Exhibit C-2. The Board accepts the evidence and argument of the Complainant put forth in its third position that a reduced rental rate for the main floor assessable area is appropriate and that the \$9 rate derived from the Respondent's C class supermarket category is supported by those comparables at page 56 of C-1. The Board further notes that Complainant acknowledges that the office rate used in its income analysis chart at page 35 of C-1 of \$1 is not correct and that the rate used by the Respondent of \$10 for the office portion is correct. With the application of the \$9 rate and the correction of the office rate

to \$10 together with the other inputs as agreed to by both parties the indicated value of the subject becomes \$8,139,781 which is the requested amount . The Board accepts that calculation and rounds the result to \$8,130,000.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF November 2012.



L. Patrick  
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. R2	Respondent Disclosure
3. C2	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.*