

**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:

***THE SHELBURNE GROUP LTD., COMPLAINANT
(Represented by Altus Group Ltd.)***

and

The City Of Calgary, RESPONDENT

Before:

***Board Chair P. COLGATE
Board Member R. DESCHAIINE
Board Member B. JERCHEL***

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:

ROLL NUMBER:	032030405	032030504
LOCATION ADDRESS:	3600 19 STREET NE	3650 19 STRET NE
FILE NUMBER:	68812	68817
ASSESSMENT:	\$3,430,000.00	\$3,340,000.00

This complaint was heard on 12 day of November, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, and Boardroom 12.

Appeared on behalf of the Complainant:

- C. Van Staden, Altus Group Ltd... – Representing Shelburne Group Ltd.

Appeared on behalf of the Respondent:

- B. Brocklebank – Representing the City of Calgary
- L. Cheng – Representing the City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

[2] The Complainant requested that a joint hearing be conducted for File 68812. Roll Number 032030405 and File 68817, Roll Number 032030504. The Complainant submitted that as the properties are owned by the same party and are of essentially the same construction quality and size, the evidence would be the same. For efficiency it would not be necessary to repeat the presentation. There was no objection from the Respondent. The Board accepted the request.

[3] As there were no further jurisdictional or procedural matters, the Board proceeded to hear the merits of the complaint.

Property Description:

[4] Subject properties are located in the North Airways Industrial area in northeast Calgary. Subject property one, 3600 19 street NE, contains two (2) multi unit warehouse structures which were constructed in 1977. The buildings, situated on 1.84 acres of land, are 12,964 and 12,700 square feet respectively. Site coverage is 31.76% and the assessment is based upon market rates of \$136.00 and \$137.77 per square foot, respectively.

[5] The second property, 3560 19 Street NE, contains two multi unit warehouse buildings which were constructed in 1977. The buildings, situated on 1.68 acres of land, are each 12,700 square feet in size. Site coverage is 34.65% and the assessment is based upon a market rate of \$131.73 per square foot.

Issues:

[6] The inequity between the assessments of the subject property in comparison to similar warehouse properties, based upon a Sales Comparison Approach and Income Approach to valuation.

Complainant's Requested Value: \$3,230,000.00 (3600 19th Street NE)
\$3,130,000.00 (3650 19th Street NE)

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

[7] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[8] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

[9] Prior Assessment Review Board decisions and higher court decisions were placed before the Board in support of requested positions of the parties. While the Board respects the decisions rendered by those tribunals, it is also mindful of the fact that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless issues and evidence were shown to be timely, relevant and materially identical to the subject complaint.

[10] Before rendering its decision, The Board noted circumstances that arose from the presentation of the Complainant in the hearing. The Complainant's presentation included extensive material on both the Sales Comparison Approach and the Income Approach to valuation and drew differing opinions of value for each approach. The Complainant concluded its presentation by requesting a revised assessment based specifically on the evidence presented with respect to the Sales Comparison Approach. When questioned by the Board for the reasons for submitting evidence based upon an Income Approach, but not utilized in the requested assessment, the Complainant stated that it was the requirements of a responsible appraiser to present the alternative approaches to valuation. However, the Complainant went on to state the Income Approach presented did not contain sufficient evidence to be a supported value and was therefore not selected for the requested revision to the assessment.

[11] The Board further noted the presentation by the Respondent was the Sales Comparison Approach, but limited its Income Approach to only responding to the evidence presented by the Complainant.

[12] Based upon the Complainant's response, it was the decision of the Board to review evidence presented by both the Complainant and the Respondent, but the Board's decision would be weighted on the Sales Comparison Approach evidence. The presentations on the Income Approach were given limited weight in the Board's deliberations and were not reference in this decision.

In the interest of brevity, all page references were from the Complainant's and Respondent's submissions for File Number 68812, Roll Number 032030405, unless noted specifically. The Board's findings and decisions were applied to both File Number 68812 and 68817.

Complainant's Evidence:

[13] For both hearings the Complainant submitted an 'Equity Comparison' chart, providing four comparable properties to the subject. The 2012 Assessment is adjusted on the basis of Total Building Area, Land Area/Site Coverage and Year of Construction, resulting in Adjusted Assessments per Square Foot –

Address	Land Area Adjustment (\$)	Year of Construction Difference	2012 Assessment (\$)	Assessment per Square Foot	Adjusted Assessment per Square Foot
3650 19 Street NE	-\$77,964	0	\$3,430,000	\$131	\$135
4215 11 Street NE	-\$20,596	-12	\$2,880,000	\$120	\$108
720 Moraine Road NE	-\$103,073	-6	\$4,120,000	\$144	\$135
1020 Meridian Road NE	-\$212,736	-7	\$3,200,000	\$128	\$113
MEDIAN				\$130	\$124

(C1, Pg. 17, File 68812)

[14] Due to the difference in building area and land area the resulting adjustments differed for 3650 19 Street NE –

Address	Land Area Adjustment (\$)	Year of Construction Difference	2012 Assessment (\$)	Assessment per Square Foot	Adjusted Assessment per Square Foot
3600 19 Street NE	-\$78,268	0	\$3,430,000	\$134	\$131
	-\$51,162	-12	\$2,880,000	\$120	\$103
	-\$180,952	-6	\$4,120,000	\$144	\$137
	-\$333,112	-7	\$3,200,000	\$128	\$107
MEDIAN				\$131	\$119

(C1, Pg. 15, File 68817)

[15] The Complainant notes that as the total building areas were so close in size, no adjustments had been made for the factor. The land was adjusted by calculating what the comparable land areas would be if it had the same site coverage as the subject and adding/subtracting the difference at a rate of \$800,000 per acre. The age difference is \$1.00 per square foot per year, determined through using paired assessments – where all other factors were equal.

[16] Based upon an analysis of the equity comparables the Complainant determined the assessed value for 3600 19 Street Ne should be \$3,176,572.00 based upon an assessment rate of \$124 per square foot and for 3650 19 Street NE the assessment should be \$3,028,583.00 base upon an assessment rate of 119 per square foot.

[17] The Complainant submitted a chart of seven (7) sales located in the northeast of the City of Calgary. (C1, Pg. 18)

- Footprint areas ranged from 12,904 to 19,947 square feet
- Total assessed building areas ranged from 13,347 to 24,880 square feet
- Land areas ranged from 0.78 to 1.33 acres
- Site coverage ranged from 24% to 46%
- Building types were one-3 or more unit warehouse and six-2 or less units warehouses
- Year of construction ranged from 1965 to 1983
- Percentage of finish ranged from 4% to 67%

- Oldest sale date was September 04, 2009
- Most recent sale date was June 22, 2011
- Sale prices ranged from \$1,500,000 to \$3,225,000
- City time adjusted sale prices ranged from \$1,497,277 to \$3,104,242
- City time adjusted sale price per square foot ranged from \$110 to \$154
- 2012 assessments ranged from \$1,940,000 to \$2,510,000
- 2012 assessment per square foot ranged from \$101 to \$154
- Time adjusted assessment-to-sales ratios ranged from 81% to 138%
- The median City time adjusted sale price per square foot was \$123
- The median time adjusted assessment-to-sales ratios was 111%

[18] The Complainant revised its requested assessment during the hearing and based the request solely on the sale at 7211 8 Street NE, which had the following attributes:

- Footprint areas was 17,609 square feet
- Total assessed building area was 24,880 square feet
- Land area was 1.08 acres
- Site coverage was 37%
- Building types was a 2 or less unit warehouses
- Year of construction was 1983
- Percentage of finish was 34%
- Sale date was December 16, 2009
- Sale prices was \$3,225,000
- City time adjusted sale price was \$3,104,242
- City time adjusted sale price per square foot was \$125
- 2012 assessments was \$2,510,000
- 2012 assessment per square foot was \$101
- Time adjusted assessment-to-sales ratios was 81%

[19] The Complainant argued this was the most comparable sale in attributes to the subject property, but required an adjustment for the difference in land area and age. The Complainant submitted an adjusted market value for the subject would be \$3,230,000.00 based upon the adjustment to the comparable's sale price.

[20] The Complainant submitted an analysis of the Assessment-to-Sales Ratios (ASR"s), part of which challenged a number of the sales as non arms length in nature, were not sold as improved parcels or other flaws to the suitability of the sale in an analysis. The Complainant provided a sample of the sales found to be flawed. (C1, Pg. 19) The Complainant argued that under the guidelines of the International Association of Assessing Officers (IAAO) "the overall ratio between the various groupings is not more than 5% between these groupings. The ratios between the groups are in excess of the allowed standards". (C1, Pg. 20) The Complainant submitted only an analysis of the group 10,000 to 24,999 square feet and the total of the sales.

	Number of Sales	Minimum TASR	Maximum TASR	Median TASR	Mean TASR	COD TASR	COV TASR
10,000 to 24,999	58	0.76062	5.42306	1.09769	1.57576	53.377%	51.839%
Total	164	0.60826	5.97724	1.03521	1.28345	35.678%	68.562%

[21] The Complainant submitted an Altus Group Ltd. document titled "Altus Income and Direct Sales Comparison Analysis". (C1, Pg 23-35) The document presented a review of the direct Sales approach methodology, reviewed the validity of City sales and an analysis of the assessment to sales ratios (ASR's).

[22] It was the argument of the Complainant that the City of Calgary analysis was flawed as the majority of the ASR's (72%) fell outside the prescribes range of 0.95 to 1.05, reaching values as low as 60.8% and as high as 597.72%.

Respondent's Evidence:

[23] The Respondent submitted a "2012 Industrial Sales Chart" that provided 3 sales, located in the northeast, the southwest and the southeast quadrants. The three sales were properties with 2 separated buildings in the assessment. (R1, Pg. 15)

Sale One: 6225 Centre Street SW

- Assessed building areas 8,000 and 11,240 square feet
- Land areas 1.44 acres
- Site coverage 30.67%
- Building types were two-2 or less unit warehouses
- Years of construction were 1961 and 1969
- Percentage of finish was 32% and 9%
- Sale date was March 20, 2011
- Sale prices was \$2,576,500
- City time adjusted sale prices was \$2,555,000
- City time adjusted sale price per square foot was \$133

Sale Two: 6235 86 Avenue SE

- Assessed building areas 13,252 and 12,477 square feet
- Land areas 4.63 acres
- Site coverage 11.58%
- Building types were two-2 or less unit warehouses
- Years of construction was 1997
- Percentage of finish was 9% and 38%
- Sale date was September 1, 2010
- Sale prices was \$3,750,000
- City time adjusted sale prices was \$3,602,000
- City time adjusted sale price per square foot was \$140

Sale Three: 1826 25 Avenue NE

- Assessed building areas were 17,600 square feet each
- Land areas 1.73 acres
- Site coverage 46.7%
- Building types were two-3 or more unit warehouses
- Years of construction was 1980
- Percentage of finish was 32% and 30%
- Sale date was May 18, 2011
- Sale prices was \$4,439,000
- City time adjusted sale prices was \$4,414,000

- City time adjusted sale price per square foot was \$125

[24] It was the Respondent's argument that when the subject property was compared to the comparables and adjustments made for the different characteristics the rates per square foot supported the assessment. The respondent noted adjustments would be necessary for size difference, parcel size, percentage of finish, age and site coverage.

[25] The Respondent submitted a "2012 Industrial Equity Chart" of four (4) comparable properties. (R1, Pg. 17) It was the Respondent's argument the Complainant had erred in its submission when it averaged the characteristics of the comparables – individual building areas, years of construction and percentage finish. The Respondent argued each building must be assessed on the basis of its individual characteristics and their associated parameters. The Respondent advised the Board that the total assessments for each property is given a negative adjustment due to the presence of two buildings on an individual titled lot, recognizing the inability to sell the building individually. The Respondent argued the average rate per square foot of the comparables, at \$138.05, supported the rate applied to the subject properties. It was the position of the Respondent the comparables submitted by the Complainant did not recognize the individuality of the buildings and the analysis resulted in incorrect conclusions.

[26] The Respondent submitted a table of the Complainant's comparables, correcting the assessment methodology to assess each building individually and applying the negative multi building adjustment. (R1, Pg. 18) The Respondent argued when the methodology is corrected the rate per square foot increase from the value of \$130 per square foot to \$148 per square foot.

[27] The Respondent argued the Complainant's reliance on a single sale to establish the rate per square foot to apply to the subject properties was contrary to the Municipal Government Act (MGA) and its regulations. It is stated in the Matters relating to Assessment and Taxation regulation that an assessment must be based upon a mass appraisal approach to value and reflect typical market conditions for similar properties, not based upon a single transaction.

[28] The Respondent in response to the Complainant's submission conceded there were outliers in the assessment process with respect to the ASR's, but noted that overall, as a group, the model passed the provincial quality standard which states the group must fall within the +5% to -5% range.

Complainant's Rebuttal:

[29] The Complainant entered, in rebuttal, a challenge to the sales submitted by the Respondent in support of its market rate.

[30] The Complainant submitted the sale for 6225 Centre Street SW was in fact part of a portfolio sale involving 6225 and 6229 Centre Street SW. A RealNet document presented showed the sale occurred March 30, 2011 for a total purchase price of \$5,000,000. The purchaser obtained 'two single storey multi tenant automotive retail buildings constructed circa 1976. The building contains a total gross leasable area of 42,946 square feet including office space'. (C2, Pg. 3) The document further states 'the remainder of the property is comprised of an asphalt surface parking lot'. (C2, Pg. 4) The document further notes the sale involved roll numbers 101001006 and 101041606.

[31] A second document from Commercial Edge also identifies the sales as being for two properties, at 6225 and 6229 Centre Street SW, with a combined area of 42, 946 square feet. It states the "sale includes 6229 Centre Street which is a 19,876 SF of building on 0.94 Acres of

land". (C1, Pg. 2)

[32] With respect to the sale at 6235 86 Avenue SE, the Complainant submitted a Commercial Edge document which stated that "currently there is 1.89 Acres of land available for lease with Roman Real Estate for \$4,600/month at the far southern part of the lot". (C2, Pg. It was the Complainant's argument that the ability to lease a portion of the property increased its value, but the City of Calgary has failed to take this into consideration in the analysis of the sale to determine the time adjusted sale price per square foot. The Complainant believed if the income from the leasable area were recognized the rate per square foot would have been set at a lower level.

Findings of the Board:

[33] As previously stated the decision of the Board was based upon the evidence submitted on the Sales Comparison Approach.

[34] The Board found the Complainant had presented a number of possible market value rates, ranging from \$123.00 to \$126.00.

[35] When the Complainant reviewed the equity comparables a median adjusted assessment per square foot rate of \$124.00 per square foot was calculated, allowing adjustments for land area/site coverage and age.

[36] The review of the seven sales derived a median rate of \$123.00 per square foot based upon the City of Calgary time adjusted sale prices. No adjustments were made to the individual sales except time adjusting the sale.

[37] The Complainant's third determination of the rate was based upon the adjustment of one sale at 7211 8 Street NE. The Complainant adjusted the sale to recognize differences between the subject property and the comparable with respect to "age, size and tenancy". No detailed evidence was submitted as to the calculation of the value.

[38] The Board's review of the Respondent's comparables found flaws in two of the sales presented.

[39] The evidence presented was sufficient to show the sale of 6225 Centre Street SW was part of a two parcel portfolio sale which may involve addition buildings and a large vacant parcel. The Respondent submitted no evidence to show the Board how the sale price had been allocated to the two parcels. The board placed little value on the sale.

[40] The sale at 6235 86 Avenue was also questioned by the Board as a result of the Complainant's rebuttal which indicated a large portion of the land was available for lease. The Board found this factor when taken into consideration with the low site coverage rendered the sale price per square foot questionable and therefore gave the sale less weight. Again, the Board place little weight on the sale.

[41] The Respondent's third sale, a warehouse of 3 or more units, was similar to the subject property with a time adjusted sale price of \$125.00 per square foot. This rate falls within the range suggested by the Complainant's analysis.

[42] The Board, in making its decision, does not accept the Complainant's use of a single sale to establish a market rate. A most often use phrase is "one sale a market does not make", but it does supply an indicator for the general market rate.

[43] The Board found the possible solutions for the market rate varied - \$123.00, based

upon the Complainant's analysis of sales; \$124.00 based upon the Complainant's analysis of equity comparables; \$125.00 based on the Respondent's one sale; and \$126.00 based upon the Complainant's use of a single property.

[44] After considering all the evidence submitted the Board has determined a rate of \$125.00 would be applied to the subject properties.

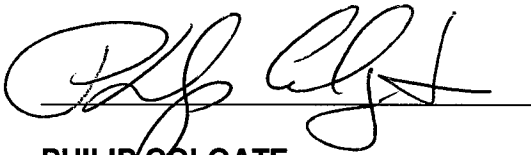
Board's Decision:

[45] Based upon the findings and the decision of the Board, the assessments are amended to the following values:

032030405 3600 19th Street NE is reduced to \$3,200,000.00

032030504 3650 19th Street NE is reduced to \$3,170,000.00

DATED AT THE CITY OF CALGARY THIS 28 DAY OF November 2012.

A handwritten signature in black ink, appearing to read 'Philip Colgate', is written over a horizontal line.

PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Sigle Tenant	Cost/Sales Approach	Equity Comparables