

**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:

Sears Canada Inc., COMPLAINANT (as represented by AEC International Inc.)

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER

H. Ang, MEMBER

A. Zindler, 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:	135002202
LOCATION ADDRESS:	5500 Dufferin Boulevard SE
HEARING NUMBER:	63600
ASSESSMENT:	\$ 6,150,000

This complaint was heard on the 29th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *J. Luong* *Agent, AEC International Inc.*

Appeared on behalf of the Respondent:

- *J. Lepine* *Assessor, City of Calgary*

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

Preliminary Issue 1 - Onus

After the Complainant finished presenting their Disclosure Document the Respondent and the Board thoroughly questioned the Complainant on the evidence and its relevance to this hearing. The Respondent claimed that burden of proof had not been met and noted for the Board that a decision on onus had been made during the previous hearing, CARB 2488/2011-P, with the same parties. The Respondent wished to only raise the topic of onus and continued the hearing without asking the Board to make a determination.

No objections of procedure or jurisdiction were raised.

Property Description:

The subject property is an Industrial-General (I-G) land use property with one Industrial Warehouse Single Tenant (IW S) building located in the Dufferin Industrial area. The subject site has an area of 5.07 acres providing site coverage of 10.74% resulting in 3.26 acres of extra land. The building on site has a footprint of 23,732 square feet with an assessable building area of 30,141 square feet built in 2000 with a 43% finish.

Issues:

The Complainant identified one issue on the complaint form:

1. assessment amount is incorrect
 - a. Comparables within the Direct Sales Comparison Approach
 - b. Methodology; Income Approach vs. Direct Sales Comparison Approach
 - i. Market Rental Rate
 - ii. Vacancy
 - iii. Unrecoverable Management Expense
 - iv. Vacancy Rate Shortfall
 - v. Capitalization Rate
 - c. Equity

Complainant's Requested Value: \$ 4,500,000 (complaint form)
\$ 2,730,000 to \$ 3,964,000 (disclosure)
\$ 3,460,000 (at hearing)

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

1. assessment amount is incorrect

The Board determined the assessment is correct, fair and equitable.

In making our decision the Board carefully looked at the evidence supplied by the Complainant;

- a) Using the Direct Sales Comparison Approach the Board found no relevant comparable properties,
- b) Using the Income Approach, the Board found no evidence to accept the \$ 9.00 market rental rate asserted by the Complainant. If the Board used the other inputs in the Income Approach, asserted by the Complainant; vacancy rate = 5.1%, unrecoverable management expense = 1%, vacancy rate shortfall = \$2.61, and capitalization rate = 7.25%, the Board would calculate a net operating revenue of \$250,848 which in turn equates to a truncated market value of \$3,460,000.

This calculation assumes the Board accepted the justification of using the Income Approach versus the Direct Sales Approach utilized by the Respondent, and it assumes that the Board accepted the inputs described above. In this case, the inputs including; market rental rate, unrecoverable management expense, vacancy rate, vacancy rate shortfall and capitalization rate had no evidence for the Board to consider them. The Complainant seemed to be making the case that; *they read it somewhere so it must be true*, versus providing real evidence for the Board to consider.

- c) The Equity comparables which contained the best evidence from the Complainant were still far short of proving to the Board that the assessment was incorrect. The Complainant provided five properties that were suggested to be comparables, however, made no adjustments of any kind including for site coverage. By doing so, the Complainant, totally ignored, age, location and 3.26 acres of excess land which according to the undisputed evidence from the Respondent is valued at \$525,000 per acre or some \$1,711,500. If you add the excess land value to the unadjusted conclusion reached by the Complainant you arrive at \$5,675,500 and there still would be additional influence adjustments required.

The Respondent did not provide evidence to support their conclusion but instead provided evidence which refuted the evidence of the Complainant.

Board's Decision:

After considering all the evidence and argument before the board, the assessment is confirmed at \$6,150,000.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF October 2011.



J. Dawson,
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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Single-Tenant	Sales Approach	Land & Improvement Comparables
			Income Approach	Net Market Rent