

**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:

Leako Holdings Ltd., (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Hudson, PRESIDING OFFICER

E. Reuther, MEMBER

B. Jerchel, 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: 112108006

LOCATION ADDRESS: 6909 Farrell RD SE

HEARING NUMBER: 61102

ASSESSMENT: \$4,580,000

This complaint was heard on the 28th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- R. Worthington

Appeared on behalf of the Respondent:

- G. Bell

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

A matter central to the interests of the Parties in these hearings, is whether the Direct Sales Comparison approach to value employed by the Respondent, or the Capitalized Income approach to value employed by the Complainant, yields the best estimate of market value for the industrial properties under complaint.

In this regard, the Parties questioned whether all of the members of this panel of the Board had, in the course of their participation in previous hearings, heard the evidence, testimony and rebuttal with respect to the 2011 Industrial Cap Rate Evidence for Multiple Roll Numbers, prepared by the Complainant. Both of the side panel Members responded affirmatively, while the Presiding Officer advised that he had not had that opportunity.

The Parties suggested that they would provide a complete, but summarized version of their presentations on the Cap Rate issue. The Parties also requested that their Cap Rate presentations be brought forward and considered in the deliberations and decisions of the Board with respect to a number of individual industrial property assessment complaints scheduled for hearing by this panel of the Board, including the subject property.

The Board had no objection and agreed to proceed as requested by the Parties.

However, it was noted that the Board will be guided by CARB 0522/2010-P, which states that, “ the legislation and attendant regulations do not identify the valuation approach chosen by an assessment authority to be the subject of a complaint to, or adjudication by a Composite Assessment Review Board (CARB). CARB’s judge the fairness and equity of the assessments which result from the valuation process, not the valuation process itself. The process is subject to audit Under MRAT Article 10 with respect to quality standards, but not to complaint adjudication by CARB’s.”

Property Description:

The subject property is a 2.38 acre parcel of land located in the Fairview industrial area, improved with four (4) single tenant (IWS) warehouses. The improvements were constructed in 1963, 1976, and 1987 and represent 34.80 % site coverage.

Warehouse #1 has 22,310 square feet (sf.), of net rentable area, with 22.00% office finish. The current assessment is \$2,274,331, or \$101 per square foot (psf.), of net rentable area.

Warehouse #2 has 11,947 sf., of net rentable area, with 85.00% office finish. The current assessment is \$1,794,041, or \$150.17 psf., of net rentable area.

Warehouse #3 has 1,600 sf., of net rentable area with 100.00% office finish. The current assessment is \$344,834, or \$215.22 psf., of net rentable area.

Warehouse #4 has 775 sf., of net rentable area with no office finish. The current assessment is \$167,898, or \$216.64 psf., of net rentable area.

The total current assessment for the subject property is \$4,580,000 (rounded), or \$125 psf., including an adjustment for multiple buildings on a parcel.

Issues:

Does the Current Assessment Amount Exceed the Market Value of the Subject Property?

Is the Current Assessment Amount Equitable when Compared to the Assessments of Similar Properties?

Complainant's Requested Value: \$3,300,000 (rounded), or \$90 psf., of total net rentable area.

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

Does the Current Assessment Amount Exceed the Market Value of the Subject Property?

The Board finds that the current assessment amount is a reasonable estimate of the market value of the subject property. The Board further finds that the Complainant has not demonstrated, based on market evidence, that the requested reduction in the assessment amount reflects both fee simple estate and market value for the subject property.

The Board also finds that all of the sales submitted by the Respondent would require major adjustment to the key valuation factors to improve comparability with each of the four buildings on the subject parcel. The Board further finds that although the sales cannot be considered reasonably comparable properties to the subject, there is insufficient evidence to reduce the assessment.

The Complainant argued that due to a lack of industrial sales that are comparable to the

properties under complaint, a reasonable estimate of the market value for assessment purposes should not be determined using the Direct Sales Comparison approach. In addition, the Complainant submitted evidence in support of their assertion that the time adjustment factors used by the Respondent to adjust sale prices, significantly understate the impact of the economic downturn on real estate values during the period from July 2008 to June 2010 (Exhibit C3(b) page 3). Under these circumstances, the Complainant argued that it is generally accepted assessment practice to prepare assessments for income producing properties based on the Capitalized Income approach to value.

In support of the Income Approach, the Complainant prepared the aforementioned 2011 Industrial Cap Rate Evidence for Multiple Roll Numbers, (Exhibits C1 and C2). The analysis examined the rate of return on the sale of eight (8) industrial properties that sold between April 2009 and April 2010, (Charts pages 19, 20 of Exhibit C1).

The Complainant employed the actual income stream of each of the properties at the time of sale; reduced by a combined 5% vacancy and non-recoverable expense factor, to arrive at stabilized net operating income (NOI). The NOI divided by the actual sale price generated a capitalization rate (cap rate), for each sale. A proposed cap rate of 8.25% for industrial properties constructed before 1995, and 7.75% for properties constructed after 1995 resulted from the analysis. These cap rates were applied in preparing the assessment amounts requested for the properties under complaint, including the subject.

In the case of the subject property, the Complainant argued that, due to its unique characteristics, the actual NOI based on the actual lease rates in place should be used to prepare the assessment. The total NOI generated using actual lease rates was \$302,659. When capitalized at 8.25%, the resulting assessment amount requested was \$3,668,591. The Complainant also reduced the amount by a factor of 10% in order to account for the multiple buildings on one parcel. The requested assessment was therefore \$3,300,000 (rounded), or \$90 psf., of net rentable area.

The Respondent countered that the thirty-eight percent (38%) reduction in the assessed amount requested by the Complainant does not reflect market value for the subject property. The Respondent argued that the Complainant's cap rate analysis is based on a limited number of sales, and mixes actual and typical inputs to produce assessments that reflect leased fee estate value, rather than the fee simple estate value required by the Matters Relating to Assessment and Taxation Regulation (MRAT), Part1, Section, 29(c).

The Respondent submitted ten (10) sales comparables in support of the current assessment of \$125 psf., (page 25 of Exhibit R1). The sales represent a median sale price of \$213 psf.

Is the Current Assessment Amount Equitable when Compared to the Assessments of Similar Properties?

The parties did not submit any evidence on the issue of assessment equity for the subject property.

Board's Decision: The assessment is confirmed at \$4,580,000.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF November 2011.

A handwritten signature in black ink, appearing to read 'T. B. Hudson', written over a light grey rectangular background.

T. B. Hudson
Presiding Officer

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

NO.	ITEM
1. C1and C2	Complainant Cap Rate Evidence
2. C3 (a), and (b)	Complainant Rebuttal
3. C4	Complainant Disclosure
4. 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.*

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<i>Decision No.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub- Issue</u>
CARB	Warehouse	Multiple Buildings on Parcel	Income vs Sales	Equity