

**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:

Lakes 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: 091026401

LOCATION ADDRESS: 1135 44 AV SE

HEARING NUMBER: 64345

ASSESSMENT: \$2,710,000

This complaint was heard on the 27th 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
- D. Mehwa

Appeared on behalf of the Respondent:

- J. Greer

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 1.94 acre parcel of land located in the Highfield industrial area, improved with one (1) multi-tenanted (IWM) warehouse. The improvement constructed in 1978, represents 25.50% site coverage, and includes 21,504 square feet (sf) of net rentable space, with 18.00% office finish. The current assessment amount is \$2,710,000 (rounded), or \$126 per square foot (psf.), of net rentable area

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?

Should the Current Assessment Amount Include an Adjustment for Extra Land?

Complainant's Requested Value: \$2,160,000 (rounded), or \$101 psf., of 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 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, 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 determined that the market lease rate was \$8.75 psf., which generated \$178,752 in NOI. When capitalized at 8.25%, the resulting assessment amount requested is \$2,160,000 (rounded) or \$101 psf.

The Respondent countered that the twenty percent (20%) 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 only eight (8) sales when a minimum of twenty-one (21) were available. In addition, the analysis 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 six (6) sales comparables in support of the current assessment of \$126 psf. (page 15 of Exhibit R1). The sales represent a median sale price of \$150 psf., and a median Assessment to Sale Ratio (ASR) of .96

The Board finds that all of the sales submitted by the Respondent require some adjustment to the key valuation factors, with emphasis on the site coverage factor, to improve comparability with the subject. However, the Board finds that on balance, the sales represent reasonably similar properties to the subject.

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 property assessment equity for the subject property.

Should the Current Assessment Amount Include an Adjustment for Extra Land?

The Board finds that the subject parcel does not have the capacity to expand the improvement in spite of the lower than average site coverage; and therefore the assessment amount should not include an adjustment for extra land.

The Complainant argued that the extra land (.29 acres out of a total parcel of 1.94 acres), identified by the Respondent is currently used for storage and parking support to the existing warehouse and is included in the lease rate. The Complainant argued that expansion of the current improvement or subdivision is not a realistic option. The adjustment should be eliminated.

The Respondent provided an aerial photo of the subject property in order to demonstrate the potential for expansion of the improvement on the .29 acres identified on the parcel as extra land. The location, configuration and access support the expansion option, and the inclusion of the adjustment for the extra land.

Board's Decision: The assessment is reduced to \$2,570,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF OCTOBER 2011.



T. B. Hudson
Presiding Officer

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

NO.	ITEM
1. C1 and 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>Issue</u>
CARB	Warehouse	Multi-tenanted	Income Approach	Cap Rate, Extra Land