

**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:

***Lesigar Holdings Ltd., / Lesak Investments Ltd., / Western 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: 078066255

LOCATION ADDRESS: 3405 9 ST SE

HEARING NUMBER: 64347

ASSESSMENT: \$2,200,000

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 1.05 acre parcel of land located in the Central industrial area of Highfield, and improved in 1966 with one single tenant (IWS) warehouse that has 16,500 square feet (sf.), of net rentable area. Site coverage is 36.15%, with 17% office finish. The current assessment using the direct sales comparison approach is \$2,200,000 (rounded), or \$133 per square foot (psf.)

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: \$1,280,000 (rounded) or \$77.50 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 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 page 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 determined that the typical lease rate was \$6.75psf, which generated \$105,806 in NOI. When capitalized at 8.25%, the resulting assessment amount requested is \$1,280,000 (rounded) or \$77.50 psf.

The Respondent countered that the forty-two percent (42%) 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 nine (9) sales comparables in support of the current assessment of \$133 psf. (page 15 of Exhibit R1). The sales represent a median sale price of \$136 psf., and a median Assessment to Sale Ratio (ASR) of 1.03

The Board finds that all of the sales submitted by the Respondent require some adjustment to the key valuation factors 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.

Board's Decision: The assessment is confirmed at \$2,200,000

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. 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.*

For MGB Administrative Use Only

<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	Single Tenant	Income approach	Cap rate