

**CALGARY  
COMPOSITE 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:**

***Loblaw Properties West Inc., as represented by Altus Group Limited, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***S. Barry, PRESIDING OFFICER  
J. Joseph, MEMBER  
E. Reuther, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>200830867</b>
<b>LOCATION ADDRESS:</b>	<b>10 Freeport Wy N.E. Calgary, AB</b>
<b>HEARING NUMBER:</b>	<b>64723</b>
<b>ASSESSMENT:</b>	<b>\$22,220,000</b>

This complaint was heard on the 18th day of October, 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:

- *C. Van Staden, Altus Group Limited*

Appeared on behalf of the Respondent:

- *K. Buckry, City of Calgary*

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

As a preliminary matter, the Respondent noted that he had prepared a revised value for the assessment that he would introduce, with the Complainant's consent, when he made his presentation. The Parties agreed that, while the Complainant did not object to the introduction of the document, she did not accept it as a resolution to the complaint.

**Property Description:**

The property under complaint is a single-tenanted, industrial warehouse, located at 10 Freeport Way in north-east Calgary, and is designated Industrial-General (I-G) under the City's Land Use Bylaw. It was constructed in 2006 and has a gross building area of 195,304 square feet (sq.ft.) including 26,682 sq.ft. of non-assessable mezzanine storage area for a net assessable rental area of 168,622. It is sited on a 13.25 acre parcel of which it covers 29.22 per cent and was assessed as a special purpose building using the Cost Approach to Value as per Marshall and Swift with an additional assessment for the land. The total assessment was \$22,220,000.

**Issues:**

1. Is the property correctly assessed as a special purpose (partly cold storage) building using the Cost Approach?
2. Has the land value been correctly calculated having regard to site coverage, excess land and for land rate calculations for parcels over 2 acres?
3. Does the assessment represent market value as of July 1, 2010?

**Complainant's Requested Value:**

The requested assessment on the Complaint Form was \$15,620,000. The request was revised in the Complainant's Disclosure document to \$16,110,000 or, alternatively, \$16,750,000.

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

1. The Complainant provided extensive argument and evidence to the effect that the subject property is a typical distribution warehouse that is outfitted, in part, with interlocking, removable, insulated panel walls and chiller units that create a non-structural area within part of the warehouse where the activities of the owner/tenant can be carried out in controlled, reduced temperatures. In this instance, these activities relate to the preservation and processing of meat products. It is the Complainant's contention that these improvements constitute chattels and are not assessable and do not create a special purpose structure because they can be removed readily if the tenancy of the property changes. The Complainant referenced a number of Municipal Government Board (MGB) and Calgary CARB 2010 and 2011 decisions that support this position; specifically, MGB Decision D.L. 099/07; CARB 1497/2010-P; and, more recently CARB 1106/2011-P.

At a later point in the hearing and with the Complainant's consent, the Respondent introduced new evidence, document R-2, a revised Assessment Explanation Summary proposal, by saying that the City has now accepted the position of the appeal bodies and will, starting for 2012, assess this type of structure, not as special purpose using Marshall and Swift, but as typical distribution warehouses using the sales comparison approach. In recognition of that change of policy, the Respondent's R-2 document provides an assessment for the current year's taxes, using sales comparisons, in the amount of \$21,460,000 truncated.

Having reviewed the Complainant's and Respondent's filings, the Board decided that this is not a special purpose building and that the cost approach to value is not appropriate in this instance. Given the City's current position in this matter, the Board does not deem it necessary to provide a more detailed review of this part of the evidence or to advance additional detailed reasons.

2. The Complainant also argued that, because the site coverage is somewhat less than 30 per cent, the cut-off point for addressing potential excess or additional land, the Respondent neglected to apply the additional value for that excess and, further, that the calculation for the land rate is incorrect. Both Parties presented rate tables that not only conflicted with each other but, in one case, conflicted with other information within the same document.

However, with the change in assessment approach, the Respondent also advised that the land calculation in general is no longer relevant; it would be included in the sales prices. As well, since the site coverage is so close to 30 per cent, there was not a separate calculation for excess land in the R-2 revised assessment.

It is the Board's decision that with the submission of a new assessment approach and the acceptance of that approach by the Board, the land rate issue and calculation is settled and no further determination is required.

3. The remaining issue, then, was the determination of market value. The Complainant presented two sales comparisons to support a median value of \$81 per sq.ft. which, when combined with a calculation for excess land and applied to the gross rather than the assessable building area (NRA), produced a requested assessment of \$86 per sq.ft. or \$16,750,000 truncated. The two properties are located in the north-east at 2340 22 St. N.E.

and 4100 Westwinds Dr. N.E.

The 22<sup>nd</sup> St. building in South Airways is smaller in size (NRA) by about 52,000 sq.ft., has close to double the site coverage, is 16 years older, has only 5 per cent finish and sits on a parcel that is 66 per cent smaller. There have been no adjustments proposed to the Board that would account for the potentially lower value that might be achieved by an older property with less finish, a smaller site with more site coverage, in an older industrial park and, arguably, with less development potential. While the sale is relatively recent at May of 2009, it cannot be considered a comparable property to the subject.

The second property at 4100 Westwinds is also a relatively recent sale in August of 2009. It does compare favourably with the subject in terms of land area and, with a year of construction of 2000, it is much closer to the subject in age. However, the building is significantly larger at 301,930 sq.ft., almost 80 per cent larger than the size of the subject; site coverage is almost 50 per cent more than the subject. Again, no adjustments have been brought forward that create an equivalency between this and the subject property.

The Respondent has used two sales comparisons: one at 6732 8 St. N.E. and one at 3 Freeport Way, adjacent to the subject property. Both sales are older than the Complainant's being from August of 2008 but the City has time-adjusted the sales prices to July 1 of 2010.

The 8<sup>th</sup> St. property has very similar site coverage and finish to the subject on a smaller, by 27 per cent, parcel. Similar to one of the Complainant's comparables, the building is significantly older than the subject by 16 years and is almost 50,000 sq.ft. smaller. The time adjusted selling price per sq.ft. for this site is \$135 while the new assessment for the subject is \$127. Again, no adjustments are suggested to account for the difference but the Complainant points to a permanent, specialized HVAC system in the comparable, that could account for the higher value and which also, because of its permanency, differentiates it from the subject.

The 3 Freeport property is a multi-building property that would normally have a downward adjustment by the City; it is the same age as the subject but is sited on a smaller parcel with considerably higher site coverage. The combined building size is about 20 per cent larger than the subject and exhibits much lower finish at 10 and 3 per cent. The time adjusted sales price of \$128 per sq.ft. compares favourably with the proposed assessment for the subject at \$127 per sq.ft. given the location and potentially lower value of the comparable due to the noted factors.

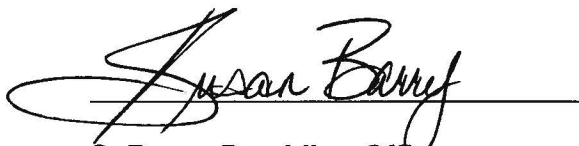
The Complainant buttressed its request on sales with equity comparables and a demonstration of the income approach. In the former, using the single tenant buildings of similar vintage, two of the comparables were the same as the sales comparables and those have been discussed. The third is a larger building on a smaller parcel with much higher site coverage and much lower per cent of finish. It shows an assessed value per sq.ft. of \$99. The income approach was not supported with rent rolls, leases or Assessment Requests for Information (ARFI) and relied on the Altus Cap Rate Study for industrial properties which was not argued by the Complainant and for which only a summary page was introduced in Rebuttal. While the Complainant also introduced business assessments for a number of properties, there was no evidence introduced to show that the assessment criteria for business assessment is the same or similar to the parameters for property assessment.

In summary, the Board found that a change in valuation approach is warranted but that the Complainant has not demonstrated, through comparable sales, equity comparisons or income methodology, that the market value of the property should be less than the revised assessment proposed by the Respondent.

**Board's Decision:**

The 2011 Assessment is revised, as per the Respondent's R-2 submission, to \$21,460,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF November 2011.

  
S. Barry, Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Disclosure, pp. 1-104
2. C2	Complainant's Disclosure, pp. 105-208
3. R1	Respondent's Disclosure
4. R2	Respondent's Revised Assessment Proposal

*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.*