



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:

Westwinds Management (Calgary) INC. (as represented by M. Sabbah), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
A. Wong, BOARD MEMBER
R. Cochrane, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	200922698
LOCATION ADDRESS:	120 – 32 Westwinds CR NE
FILE NUMBER:	70126
ASSESSMENT:	\$414,500

This complaint was heard on 4th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- *M. Sabbah – Property Manager*

Appeared on behalf of the Respondent:

- *F. Taciune – Assessor – City of Calgary*
- *M. Hartmann – Assessor – City of Calgary*

Regarding Brevity

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

Property Description:

[3] The subject is a 2006 (year of construction) single industrial condominium bay in a multi-bay industrial complex located in the Westwinds industrial area. The subject consists of 1,045 square feet (SF) of "unfinished" ground floor warehouse; 185 SF of ground floor "finished" area; and 1,200 SF of "finished" mezzanine floor space. The total assessable area of 2,430 SF is assessed at \$171 per SF (blended rate) for a total assessment of \$387,000.

Issues:

[4] What is the correct and equitable assessed value of the subject when compared to other similar units in the same condominium property complex?

Complainant's Requested Value:

[5] The Complainant requests an assessment of \$333,000 based on the comparison of his condo unit to others in the Condominium complex.

Board's Decision:

[6] The Board confirmed the assessment at \$414,500.

Legislative Authority, Requirements, and Considerations:

[7] Under the *Municipal Government Act* (MGA), the Board cannot alter an assessment which is fair and equitable.

[8] MGA 467 (3) states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[9] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

Positions of the Parties

(a) Complainant's Position:

[10] The Complainant presented a copy of his initial complainant form. He argued in Section 5 on the form that the assessment is "more than last year"; is "not equal to other (units) in the same building"; "the same percentage apply(ied) to other bays"; and, "I have less sq. footage than the City".

[11] The Complainant argued that he wanted his unit #120 to be assessed similar to bays #110; #170; and #180 in his complex. He argued that these bays are all about the same size and configuration as his bay, and they are assessed substantially lower than his unit at about \$329,000 to \$350,000 each.

[12] The Complainant also suggested that the City's records indicate the size of his unit is larger than it is. He indicated that the unit was 2,300 SF on two floors instead of the assessed 2,430 SF but did not provide any documentation to confirm his point. He clarified that the second floor was added in 2009 and he had taken several photographs of the interior of the subject and conveyed them to the Assessment Department. He noted however that no one from the Department had attended his property to check its measurements or confirm its level of finish.

[13] The Complainant argued that he had spoken several months ago at various times with an Assessor at "City Hall" who had offered to reduce the assessment of his unit to \$377,000 but he had declined. He argued that he did so because he wanted his unit to be assessed similar to other units in the complex whose assessments he argued, ranged from \$329,000 to \$350,000. The Complainant was unable to identify the Assessor he had spoken to on this matter, or provide any documentary evidence confirming the same.

[14] The Complainant argued that unit #170 is identical to his unit #120 but is assessed less than his unit, and he considered this to be inequitable and unfair. He noted that the Respondent in his Brief R-1 had not provided any assessment details regarding unit #170 and was puzzled as to why this was the case? He requested the assessment of the subject be reduced to \$333,000.

(b) Respondent's Position:

[15] The Respondent presented his Brief R-1 and clarified that unit #170 to which the Complainant has compared his unit #120, has been "flagged" in the City's assessment computer system because there appears to be errors in the data for that unit. He noted that the assessment of unit #170 this year had increased from \$359,000 last year to \$619,000 this year which is erroneous. He noted that the Assessment Department is reviewing this file to correct it, therefore, he did not use any data on unit #170 in preparing his Brief R-1. He suggested the assessment of unit #170 should not be used to compare the assessments of other units because he considers it unreliable.

[16] The Respondent provided a matrix containing seven time-adjusted market sales of other industrial condominium units very near to the subject, predominantly on Westwinds CR NE and Westwinds DR NE. The sales occurred from 2009 to 20012 and sold for values ranging from \$358,668 to \$458,361. He argued that these values support the assessment at \$414,500.

[17] The Respondent noted that he had been in condo unit #507 recently at 4774 Westwinds Dr NE nearby the subject, and it has a total assessable area of 2,096 SF while the subject has 2,430 SF. He noted that it has no ground floor finished area like the subject, which has 185 SF of more valuable ground floor finished area. He clarified that unit #507 sold in 2010 for a time-adjusted value of \$403,463 which is similar to the subject which is assessed at \$414,500.

[18] The Respondent provided a second matrix containing five assessment equity comparables for industrial condo units - all from the Complainant's complex at 32 Westwinds CR NE. The units were #130; #140; #319; #327; and #110. He compared the respective assessments of these five units to the subject. The assessments ranged from \$182 to \$214 per SF while the subject is assessed at \$171 per SF. He noted that unit #110 is directly adjacent to the subject and has the same rectangular configuration. He argued that it is assessed at \$191 per SF whereas the subject is at \$171 per SF. The Respondent argued that this information supports the assessment of the subject.

[19] The Respondent argued that the Complainant has provided no market evidence to support his position that the assessment of the subject is either incorrect, unfair, or inequitable. He argued that he, the Respondent, has provided considerable detailed market evidence that supports the assessment of the subject. He requested that the Board confirm the assessment at \$414,500.

Board's Reasons for Decision:

[20] The Board finds that given the assessment equity evidence of the Respondent, the subject is assessed at a lesser rate per SF than most other units in the Condominium complex. Moreover, the immediately adjacent unit #110 to which the Complainant wishes to be compared, is assessed at \$20 per SF more than the subject. This evidence supports the assessment of the subject.

[21] The Board finds that the Respondent provided a matrix containing seven time-adjusted market sales of industrial condo units in the same immediate locale as the subject, the sizes and sale values of which support the assessment.

[22] The Board finds that the Complainant provided no documentary evidence to support his assertions that the Assessor was prepared to reduce the assessment to \$377,000, or the basis for such a reduction. Therefore the Board puts little weight on this verbal evidence.

[23] The Board finds that the Complainant provided no documented market sales and/or equity evidence to support his request for a reduction in the assessment from \$414,500 to \$333,000.

[24] The Board finds that the Complainant provided insufficient information to demonstrate that the assessment is not correct, fair, or equitable.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.


K. D. Kelly
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. File item	Complainant's Initial Complaint Form
2. R-1	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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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	Industrial condo unit	market value	equity