



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:

Aero Metal International Inc. (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair; J. Zezulka
Board Member; D. Julien
Board Member; B. Kodak***

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: 032509168

LOCATION ADDRESS: #13, 2139 Pegasus Way NE

FILE NUMBER: 70306

ASSESSMENT: \$1,120,000

This complaint was heard on 1 day of August, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *F. Taciune*

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

- (1) There were no procedural or jurisdictional matters raised by either party.

Property Description:

- (2) The property consists of a 6,981 s.f. industrial condominium unit, located in the Pegasus Industrial area of NE Calgary. The building was built in 1998. The property is classified as class B by the business Assessment Unit of the City. The Complainant does not dispute the classification.

Issues / Appeal Objectives

- (3) The single issue brought forward by the Complainant is market value, stating that the current assessment does not properly reflect the market value of the site. Currently, the unit is assessed at \$1,120,000, or \$150.44 per s.f. overall. The City states that the actual assessable area of the unit is 6,981 s.f., since the 464 mezzanine area is undeveloped and therefore not assessed. The Complainant contends that a rate of \$150.00 per s.f. of assessable area more accurately reflects the market value on July 1, 2012.

Complainant's Requested Value:

- (4) \$1,057,000

Board's Decision:

- (5) The assessment is confirmed at \$1,120,000.

Legislative Authority, Requirements and Considerations:

- (6) This Board derives its authority from section 460.1(2) of the Municipal Government Act, being Chapter M-26 of the revised statutes of Alberta.

(7) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAC), states as follows;

"An assessment of property based on market value

(a) must be prepared using mass appraisal

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property"

(8) Section 467(3) of the Municipal Government Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

(9) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

Position/Evidence of the Parties

Complainant's Position:

(7) The Complainant submitted two sales comparables to support his position. Both transactions involved two condominium units in one transaction. The two reflected selling prices of \$156 and \$128 per s.f. The average was presented at \$141.72. Both transactions occurred in November, 2011. No adjustments of any kind were applied by the Complainant.

Respondent's Position:

(8) The Respondent submitted six condominium unit transactions in support of the current assessment. The data reflected a time adjusted selling price range from \$156.15 to \$225.56. The median is \$181.31. All of the properties are located in NE Calgary. One of the comparables is a multi-unit transaction on Pegasus Way, near the subject. The total package contains 7,522 s.f. The transaction occurred in June, 2012. The time adjusted selling price calculates to \$156.87 per s.f.

(9) The Respondent also presented seven equity comparables. All of the comparables are located either on Pegasus Road, or Pegasus Way NE. Per s.f. assessments range from \$172 to \$215 per s.f. However, the Respondent also pointed out that all of the comparables were substantially smaller than the subject, and the economies of scale dictate that these assessments should be higher per unit.

Board's Reasons for Decision:

(10) The onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment.

(11) In *Manyluk v. Calgary (City)*, MGB Board Order 036/03, it states;

"Every opportunity is provided to both parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus rests on the appellant, at an assessment

appeal, to convince the MGB their arguments, facts and evidence are more credible than that of the Respondent."

(12) In *Kneehill (County) v. Alberta (Municipal Affairs, Linear Assessor)* (2004) Board Order MGB 001/04

"It is up to the parties who file a complaint on an assessment to put sufficient energy into proving that their allegations are well founded. In other words, the onus is upon the complaining party to provide sufficient evidence in order to prove their case."

(13) In the opinion of this Board, the Complainant's evidence was not sufficient to justify a change.

DATED AT THE CITY OF CALGARY THIS 6 DAY OF September 2013.



Jerry Zezulka
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:****NO. ITEM**

1. C1 Complainant Disclosure
2. 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

Decision No. CARB 70306P/2013			Roll No. 032509169	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Market Value	N/A	Comparables