

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:

2200-41 ANE Property Ltd. (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: 032044901

LOCATION ADDRESS: 2200 - 41 Ave.NE

FILE NUMBER: 70339

ASSESSMENT: \$13,030,000

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:

- *L. Cheng*
- *E. Wu*

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 99,202 s.f. industrial warehouse of two units or less, located in the Industrial North Airways community of NE Calgary. The building footprint is 94,645 s.f. The site area is 7.17 acres. Site coverage is 30.32 per cent.

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 property is assessed using the sales comparison approach, at \$131.37 per s.f. of building. The Complainant contends that a rate of \$111.11 per s.f. of assessable area more accurately reflects the market value on July 1, 2012. The Complainant does not dispute the valuation method.

Complainant's Requested Value:

- (4) \$11,020,000

Board's Decision:

- (5) The assessment is confirmed at \$13,030,000.

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:

(10) The Complainant submitted 19 sales of non residential property, out of which the Complainant selected four as being the most comparable to the subject. These reflected selling prices per s.f. ranging from \$63.39 to \$110.87 per s.f. From that range, the Complainant adopted a requested value of \$111.11 per s.f.

(11) Two of the four comparables selected by the Complainant are multi-building properties. This aspect was not accounted for in the Complainant's analysis. One, at 1939 Centre Avenue SE, is a dairy property with special purpose storage tanks and processing facilities not shared by the subject. This property is not considered comparable to the subject.

(12) In oral evidence, the Complainant stated that the most reliable comparable was a property at 930 - 64 Avenue NE. That building was significantly larger than the subject, on a slightly smaller land parcel. The property sold in February, 2011 at a time adjusted selling price of \$14,268,240, or \$110.87 per s.f.

Respondent's Position:

(13) The Respondent submitted six industrial property transactions in support of the current assessment. The data reflected a time adjusted selling price range from \$112.65 to \$222.47 per s.f.. The median is \$130.78.

(14) Of the six comparables listed, one is the two year old sale of the subject at \$19,750,000, time adjusted to \$22,069,440, or \$222.47 per s.f. Neither party offered any comments relative to this transaction.

(15) Another comparable, located at 7260-12 Street SE, is located in the Central zone, compared to the subject's NE region. By reason of location, this comparable was rejected as not being representative of the subject.

(16) A third comparable used by the Respondent is the same property used by the

Complainant at 9309-64 Avenue NE. However, the Respondent adopted a floor area of 118,402 s.f., compared to the Complainant's analysis based on 128,693 s.f. Neither party offered any evidence as to which floor area is the correct one.

(17) The remaining three comparables reflect time adjusted prices of \$120.51, \$137.76, and \$123.81 per s.f.

(18) The Respondent also presented eight equity comparables. All of the comparables are located in NE Calgary. Per s.f. assessments range from \$111.80 to \$136.67. The median appears at \$125.34, compared to the subject's assessment at \$131.37 per s.f. However, with one exception, the subject's site area is larger than any of the comparables, and this arguably, is rationale for a slightly higher assessment.

Board's Reasons for Decision:

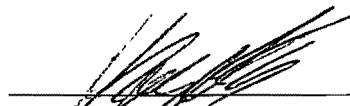
(19) In *Manyluk v. Calgary (City)*, MGB Board Order 036/03, it states;
"Every opportunity is provided to both parties to present evidence and arguments in support of their positions. The ultimate burden of proof or onus rests on the appellant, at an assessment appeal, to convince the MGB their arguments, facts and evidence are more credible than that of the Respondent."

(20) 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."

(21) In the opinion of this Board, the Complainant's evidence was not sufficient to prompt this Board to consider a change in the existing assessment.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF September 2013.



Jerry Zezulka
Presiding Officer

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

1. C1Complainant Disclosure
2. R1Respondent 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 70339P/2013			Roll No. 032044901	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Market Value	N/A	Comparables