



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:

SAM CAPITAL CORP. (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***R. Glenn, PRESIDING OFFICER
R. Kodak, BOARD MEMBER
J. Joseph, 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: 032509705
LOCATION ADDRESS: 232 2340 Pegasus Wy NE
FILE NUMBER: 70472
ASSESSMENT: \$209,500

This complaint was heard on Monday, the 12th day of August, 2013 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 10.

Appeared on behalf of the Complainant:

- J. Langelaar, Agent

Appeared on behalf of the Respondent:

- G. Foty, Assessor
- F. Taciune, Assessor

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

[1] When asked, neither party raised any issues with regard to either Jurisdiction or, Procedure. However, the parties did mutually request that all of the argument and evidence presented on this matter should in addition be applied to all 11 of the other properties in this series. This includes the following: CARB 70472, CARB 70475, CARB 70492, CARB 70494, CARB 70497, CARB 70500, CARB 70502, CARB 70503, CARB 70537, CARB 70544, and CARB 70545, with all of the foregoing being 2013-P. The Board confirmed that this reflected the wishes of the parties and agreed to have argument and evidence applied as requested.

Property Description:

[2] The subject is one of 12 small industrial condos, ranging from 970 to 989 SF, "A" class, built in 2000, in a large common building, located on a 2.3 acre site with onsite parking, near the south end of the Calgary International Airport in the community of Pegasus Industrial

Issues:

- [3] (a) Whether the subject assessment is correct, based on:
- (i) whether the subject is part of a contiguous group;
 - (ii) whether the units must be assessed on a singular basis, or can they be assessed based on a bulk sale.
- (b) Whether the subject assessment is correct based on its compliance with MRAT Regulations.

Complainant's Requested Value:

- [4] \$167,600

Board's Decision:

[5] The assessment is confirmed at: \$209,500

Complainant's Position:

[6] The Complainant presented a single comparable multiple unit sale consisting of six of the units in the subject building, with a sale price of \$157/SF. The total sale package consisted of 7513 SF, and rendered an ASR of 1.33. The Complainant argued the subject units were contiguous, because they were located in a solid block in the subject building. The Complainant argued that the six sales were an excellent indication of Market Value for units in the same building.

[7] They went on to argue that the Respondent's sales are all single unit condos, and further, that the Respondent's show no evidence of broker involvement to confirm that the sales were actually at Market Value. The Complainant presented two additional sales in buildings right across the street from the subject, where those sales had both a median and an average of \$152.50/SF.

[8] On cross examination, the Complainant acknowledged that one report of the sales prices reported in their brief on the six unit sale was at variance with their figures, but they were unable to satisfactorily explain why. In addition, the Complainant was not able to provide evidence that their comparables (especially the two additional sales) were all arm's length transactions.

[9] The Complainant cited Board Order **MGB 166-00** for the proposition that bulk sales can be relied on as a reasonable indication of Market Value. However, in that decision, the bulk sales were not materially different from the unit sales.

Respondent's Position:

[10] The Respondent relied on a Court of Queens Bench decision cited as: **Calgary (City) v. Lougheed & Company, 2001 ABQB 371** which stands for the proposition that individual units must be assessed on a one by one basis, and not as a group. In other words, each unit must be assessed individually. Incidentally, the cited decision was subsequently confirmed by the Alberta Court of Appeal. The Respondents went on to argue that one of the two additional sales which the Complainant presented as a comparable was not an arm's length transaction, but they provided no evidence in that regard.

[11] They also went on to argue the whole concept of what constitutes an arm's length transaction in detail. The Respondents presented a number of equity comparables that demonstrated sales prices in two separate amounts: \$241/SF and \$212/SF.

[12] The respondents went on to argue that the Complainant's comparables are much too large to be truly comparable (9,000 SF vs 987SF. They stated that single unit sales are a better indication of value than the bulk sale of six units.

[13] They completed their argument by stating that they use Multiple Regression Analysis,

so, their 2013 Industrial Time Adjustments were properly made.

Board's Decision in Detail:

[14] The Board found that the subject is part of a contiguous group. The Respondent's argument on size would have made more sense if the Complainant's condos were not contiguous and owned by the same entity. On the question of an arm's length transaction, the Complainant admitted that the property was sold to the sole tenant. The Respondent argued that was an indication of a non-arms length transaction, and a sale under that rubric insinuates it is not a true indication of market value.

[15] On balance, the materials of the Respondent demonstrated that there was equity among their comparables, and therefore suggested their assessment was fair and equitable. The Respondent argued that they actually showed what the market value really was. The Board agreed with that submission.

[16] The Complainant argued that all of their comparables showed that there was an over-assessment. They argued that all of the properties should have been treated the same, however, they were in fact not all the same. The Board was of the opinion that the decision of Madam Justice Rowbotham in Calgary v. Lougheed supra, should be applied here, confirming that units should be assessed on a one by one basis, and not as a group. The Complainant's argument on this point was directly contrary to the Calgary v. Lougheed decision.

[17] The issue of whether the subject assessment was in compliance with MRAT regulations was not directly addressed in argument, and so, will not be addressed here.

[18] All told, the argument of the Complainant failed to convince the Board that the subject assessment was in need of correction, and accordingly, the assessment in the amount of \$209,500 is herewith confirmed.

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



R. Glenn
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
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| 1. C1 | Complainant Disclosure |
| 2. C2 | Complainant Rebuttal Disclosure |
| 3. 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.*