



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:

***MARKUS FRANZ LANGENSIEPEN, COMPLAINANT and
KARIN CHRISTINE LANGENSIEPEN, COMPLAINANT
C/O ATLANTIC REALTY SERVICES INC.
(as represented by AEC Property Tax Solutions)***

and

The City Of Calgary, RESPONDENT

before:

***BOARD CHAIR: P. COLGATE
BOARD MEMBER: B. BICKFORD
BOARD MEMBER: H. ANG***

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:	115063000
LOCATION ADDRESS:	6703 30 STREET SE
FILE NUMBER:	71185
ASSESSMENT:	\$5,580,000.00

This complaint was heard on the 17th day of June, 2013 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:

- *Brock Ryan, AEC Property Tax Solutions*

Appeared on behalf of the Respondent:

- *James Greer, City of Calgary*

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

Preliminary Matter:

[2] The preliminary matter raised in File Number 71185, Roll Number 115063000, 6703 30 Street SE was a request for portions of the presentations and the resulting questions be carried forward to the remaining nine hearings before the Board. This request was made jointly by the Complainant and the Respondent.

[3] The Board accepted the request of the Respondent and the Complainant and will carry forward the information received for this hearing to the following nine hearings:

File	Roll Number	Address
70947	090089004	4616 Manhattan Road SE
71164	077028207	2525 16 Street SE
71167	033001108	4612 6 Street NE
71169	090066291	4319 1 Street SE
71178	034188797	635 46 Avenue NE
71181	033039801	1216 36 Avenue NE
71187	200477016	7910 51 Street SE
71192	116018995	4915 77 Avenue SE
72253	092019702	1607 41 Avenue SE

The Board noted the carrying forward of information does not mean the decisions will be the same for each hearing, for each must stand upon its own merits.

[4] The Board accepted the Complainant's revision of the Assessment Review Board Complaint to reflect only Matter 3 – 'an assessment amount' as the only matter to be placed before the Board.

Property Description:

[5] The subject property is a multi-unit, industrial warehouse (IN0701) constructed in 1974. The structure, rated as 'C' quality is located at 6703 30 Street SE in the Foothills Industrial area. The structure, situated on a 3.72 acre parcel, has an assessable area of 50,438 square feet, with 4% finish. Site coverage is 31.16%. The land use designation is I-G, Industrial General. The subject property has been assessed, based upon the Direct Comparison Approach, for \$5,581,721.00 (rounded to \$5,580,000.00) or \$110.66 per square foot.

Issues:

[6] The primary issue placed before the Board is one of equity with comparable properties in the vicinity of the subject property.

[7] The Complainant submitted analysis based upon the three approaches to value – direct comparison approach, income approach and cost approach – to present a prima facie case for the inequity of the assessment market value. The Board noted the Complainant's requested assessment was based upon an equity argument with similar properties.

Complainant's Requested Value: \$4,835,000.00**Board's Decision:**

[8] The Board, upon review of the evidence submitted by the Complainant and the Respondent, found sufficient evidence was provided to justify a change to the assessment of the property under complaint.

[9] The Decision of the Board was to amend the assessment to **\$4,880,000.00**

Legislative Authority, Requirements and Considerations:

[10] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[11] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

[12] Both parties also placed Assessment Review Board decisions before this Board in support of their positions. While the Board respects the decisions rendered by those tribunals, it is also mindful of the fact that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless issues and evidence were shown to be timely, relevant and materially identical to the subject complaint.

Position of the Parties**Complainant's Position:**

[13] As previously stated the Complainant presented analysis of the income approach, the direct comparison approach and the cost approach to support their prima facie case that the assessed value was incorrect. A summary of the Complainant's results follows:

Value Type	Approach to Value	Indication of Value
Market	Income Approach	\$4,481,000
Market	Direct Comparison Approach	\$4,481,000
Market	Cost Approach	\$4,110,691
Suggestion of Value	Average (Rounded)	\$4,357,564
	Median (Rounded)	\$4,481,000
2013 Assessment	Direct Comparison	\$5,580,000

(C1, Pg. 140)

[14] For the Income Approach, the Complainant presented an analysis of seven (7) sales in determination of a requested capitalization rate of 7.79%. (C1, Pg. 19) The seven properties, located in the northeast and southeast quadrants of the city, had sales ranging from 2011-01-31 to 2012-06-20 with capitalization rates, based upon the Complainant's analysis, ranging from 6.21% to 9.75%. The Complainant employed a vacancy rate of 3.0% obtained from third party reports (C1, Pg. 43-59), operating costs of \$3.50 and a non-recoverable allowance of 2.0%. Rental rates were determined through the analysis of 12 leases from 6 properties located in the southeast quadrant of the City of Calgary, with a median value of \$7.13 and an average of \$7.18. The Complainant used a typical rate of \$7.25. (C1, Pg. 42)

[15] The Complainant's Direct Comparison Approach entailed a review of the sale price per square foot for the seven sales with a resulting average of \$86.26 and a median of \$87.17 per square foot. The Complainant used a rate of \$87.12 per square foot with a suggested assessment of \$4,481,412.00.

[16] The Complainant employed a Marshall and Swift costing manual to determine the replacement cost of the structure. (C1, Pg. 65) Based upon the details for the subject property, the land was valued at \$2,176,200 and the depreciated building at \$1,934,491, for a combined value of \$4,110,691.00.

[17] Based upon the results the Complainant submitted that a prima facie case had been presented to question the validity of the City of Calgary assessment of the subject property. Based upon the findings the Complainant submitted an equity argument for a revised assessment with a suggested value of \$4,835,172.00. (C1, Pg. 141)

[18] The basis for the Complainant's requested assessment was based upon an analysis of five (5) equity comparables of multi-bay warehouses located in the Foothills Industrial area which suggested a per square foot rate of \$94.00:

Roll Number	Address	Effective Age	Assessable Land Area (sq. ft.)	Total Building Area (sq. ft.)	Floor Area Ratio	Assessment per Square Foot Building Area	2013 Assessment
11506300 (Subject)	6703 30 St SE	1974	161,889	51,438	0.32	\$108	\$5,580,000
115062002	7703 30 St SE	1975	198,171	75,839	0.38	\$99	\$7,530,000
115062101	7519 30 St SE	1973	91,287	48,000	0.53	\$94	\$4,500,000
115065302	8241 30 St SE	1975	175,759	76,770	0.44	\$95	\$7,260,000
116007758	4380 76 Ave SE	1980	103,640	44,700	0.43	\$91	\$4,050,000
200355600	6204 29 St SE	1976	175,027	77,761	0.44	\$94	\$7,300,000
					Average	\$94	
					Median	\$94	
115063000 (Subject Revised)	6703 30 St SE	1974	161,889	51,438	0.32	\$94	\$4,835,172

(C1, Pg. 141)

[19] A noted decision submitted by the Complainant was CARB 0756/2012-P which dealt with the 2012 City of Calgary assessment for the subject property.

[20] The Complainant submitted a rebuttal document (C2) in which it presented an argument for the adjustment of a Respondent's comparable at 6213 29 Street SE. The Complainant argued that recognition should be made for excess of land, thus reducing the assessment and the assessment per square foot rate.

[21] Also in rebuttal, the Complainant noted the Respondent's equity comparables contained properties with high percentage of finish and site coverage.

Respondent's Position:

[22] In response to the Complainant's sale comparables used to establish the Complainant's direct comparison value and the capitalization rate, the Respondent noted a number of deficiencies in the selection of the sales. (R1, Pg. 20) Only two of the sales were located in the southeast quadrant of the city. Two of the sales had significantly smaller building areas and five of the properties had significantly larger site coverage. The Respondent noted that if adjustments were made for these characteristics there would be a resulting change to the assessed value per square foot with increases for the smaller areas of the comparables and decreases for the higher site coverage.

[23] The Respondent argued the Complainant had failed to make any time adjustments for the older sales to bring them in line with the July 1, 2012 valuation date and submitted a City of Calgary Assessment Business Unit document on time adjustments for the 2013 industrial

properties. (R1, Pg. 55) The Respondent submitted an analysis of the Complainant's sales which, when time adjusted, produced a slightly higher sale price per square foot at \$88.38 with the provision recognition must be made for variables such as site coverage and building size. (R1, Pg. 20)

[24] The Respondent submitted four sales which, based upon time adjusted sale prices, established a range of sale price per square foot from \$78.22 to \$143.55, in support of the subject assessed at \$110.66 per square foot. (R1, Pg. 22) The median time adjusted sale price per square foot for the four sales was \$104.93.

[25] In response to the Complainant's income approach presentation, the Respondent submitted a review of the leases used by the Complainant to establish the rental rate. The Respondent determined the weighted average of the leases was \$6.12, whereas the complainant employed a rate of \$7.25. (R1, Pg.26) Based upon the revised typical rent, the Respondent submitted a revised calculation of the capitalization rate at an average of 6.61% and a median of 6.42%, significantly different from the Complainant's capitalization rate of 7.79%. (R1, Pg. 27)

[26] The Respondent submitted a table showing the Board the resulting Assessment to Sales Ratios (ASR's) if the rates submitted by the Complainant were employed. (R1, Pg. 28). The results showed ASR's ranging from 0.61 to 1.11, with a median value of 0.83.

[27] The Respondent, submitting the Complainant's equity comparables, noted they failed to take into consideration the larger site coverage in excess of 43% compared to the subject property with 31%. (R1, Pg. 24) The Respondent stated the increased site coverage had a corresponding decrease in the assessment and assessment per square foot resulting in a lower rate per square foot for the comparable properties than the subject.

[28] In response to the Complainant's equity comparables the Respondent submitted eight properties located in the Foothills Industrial area. (R1, Pg. 25). The resulting median for assessment per square foot was \$110.45, compared to the subject at \$110.66.

Roll Number	Address	Effective Age	Assessable Land Area (acres)	Total Building Area (sq. ft.)	Site Coverage (%)	Finish (%)	Assessment per Square Foot Building Area	2013 Assessment
11506300 (Subject)	6703 30 St SE	1974	3.72	50,438	31.16	4	\$110.66	\$5,581,721
201067402	5049 74 Ave SE	1982	3.76	55,000	30.43	26	\$112.15	\$6,168,183
201639556	3131 57 Ave SE	1981	3.42	51,536	32.35	13	\$109.50	\$5,643,431
097003909	5920 40 St SE	1976	3.68	51,200	29.22	17	\$109.00	\$5,580,547
116005703	7177 40 St SE	1981	2.60	50,228	43.08	8	\$100.99	\$5,072,485
116009192	3700 78 Ave SE	1980	2.41	48,905	32.02	57	\$116.34	\$5,689,823
097001655	5550 36 St SE	1979	3.13	47,118	34.59	1	\$111.39	\$5,248,385

115062309	7419 30 St SE	1976	2.35	46,073	42.73	16	\$99.26	\$4,573,277
201816568	4510 76 Ave SE	1980	3.30	45,337	43.44	7	\$114.18	\$5,176,402
					Median		\$110.45	

Board's Reasons for Decision:

[29] The Board first notes the continued problem the City of Calgary has in its published information with respect to the details attributed to the properties in its inventory. The Board found the difference between the City of Calgary website's "Property Assessment Detail Report" and the Assessment Business Unit's "Assessment Explanation Supplement" showed a difference in building areas. In the case of the subject property the difference is 1,000 square feet. The result of this discrepancy created requests made by the Complainant based upon faulty information provided by the City of Calgary. Both the Complainant and the Respondent agreed to use the area supplied by the Assessment Explanation Supplement if adjustments were warranted by the Board. The Board strongly encourages the City of Calgary to resolve this on-going problem which has existed for a number of years.

[30] The Board in its deliberation looked to the Complainant's establishment of a prima facie case, in that the assessed value assigned to the subject property was not reasonable, lacking fairness and equity. While the Complainant employed the three approaches, the Board found a number of flaws in the application of the analysis. In the case of the Direct Comparison Approach, the Complainant provided a simple mathematical analysis of the sale price per square foot. A proper analysis would recognize the differences between the properties for characteristics such as building size, lot size, and site coverage and make adjustments to the sale prices. For the Income Approach, the Respondent raised challenges with respect to the rental rate and the capitalization rate. No issues were raised with the Cost Approach as submitted by the Complainant, except a verbal statement that cost analysis did not always correspond to the market value.

[31] While the Board found existing flaws in the Complainant's presentation on the three approaches to value, there was sufficient evidence to support the review of the assessment.

[32] During the Board's review of the evidence submitted it found the analysis of the ASR's for the sales submitted by both parties showed a constant pattern of falling outside the quality standard range of 0.95 to 1.05 for a median assessment ratio. The Board found of the nine sales reviewed from the evidence that eight had ASR's ranging from 1.07 to 1.52 and one had an ASR of 0.87. The median for the sales was determined to be 1.15, indicating the sales were over assessed as a submitted sample of comparable properties.

The Board, upon review of the equity comparables, found three properties which had similar characteristics as the subject property;

Roll Number	Address	Building Area	Assessment	Assessment per Square Foot
115062002	7703 30 St SE	72,001	\$7,531,846	\$102.25
097003909	5920 40 St SE	51,200	\$5,580,547	\$109.00
097001655	5550 36 St SE	47,118	\$5,248,385	\$111.39
			Average	\$107.55

[33] The Board in reaching its decision took into consideration the average rate for the three comparable properties and the consistent over assessment of properties based upon the presented sales. The Board finds a revised rate of \$96.79 is an appropriate rate and amends the assessment to \$4,880,000.00.

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

A handwritten signature in black ink, appearing to read 'Philip Colgate', is written over a horizontal line.

PHILIP COLGATE

Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

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

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Multi Tenant	Cost/Sales Approach	Equity

LEGISLATIVE REQUIREMENTS

MUNICIPAL GOVERNMENT ACT

Chapter M-26

1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1

Preparation of Assessments

Preparing annual assessments

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a)the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004

Municipal Government Act

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION

1(f) “assessment year” means the year prior to the taxation year;

Part 1

Standards of Assessment

Mass appraisal

2 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.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.