



## 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:

***Wezu Property Management Ltd. (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***Board Chair; J. Zezulka  
Board Member; E. Reuther  
Board Member; P. McKenna***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>200956985</b>	<b>200956993</b>
<b>LOCATION/ADDRESS:</b>	<b>#2, 1404 - 44 Ave. NE</b>	<b>#3, 1404 - 44 Ave. NE</b>
<b>FILE NUMBER:</b>	<b>71577</b>	<b>71578</b>
<b>ASSESSMENT:</b>	<b>\$393,000</b>	<b>\$383,000</b>
<b>ROLL NUMBER:</b>	<b>200957009</b>	<b>200957017</b>
<b>LOCATION/ADDRESS:</b>	<b>#4, 1404 - 44 Ave. NE</b>	<b>#5, 1404 - 44 Ave. NE</b>
<b>FILE NUMBER:</b>	<b>71580</b>	<b>71582</b>
<b>ASSESSMENT:</b>	<b>\$377,500</b>	<b>\$377,500</b>

This complaint was heard on 16 day of September, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

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) This is a complaint against the assessment of four separate, but adjacent industrial condominiums, with a common owner. At the outset of the hearing, because of the commonality of issues and evidence, both parties agreed to have the four complaints heard simultaneously.

#### **Property Description:**

- (2) The properties consist of four industrial warehouses located in the McCall Industrial district of north east Calgary. In summary, the properties are described as follows;

<u>File #;</u>	<u>Unit #</u>	<u>Bldg Size</u>	<u>Ground floor finished area</u>
71577	2	2,136 s.f.	504 s.f.
71578	3	2,132 s.f.	192 s.f.
71580	4	2,132 s.f.	
71582	5	2,132 s.f.	

The project was built in 1973.

#### **Issues / Appeal Objectives**

- (3) The single issue brought forward by the Complainant was market value, stating that the current assessments are in excess of the market value of the properties. The Complainant did not address the question of equity.

#### **Complainant's Requested Value:**

(4)	<u>File #;</u>	<u>Current Assessment</u>	<u>Requested Assessment</u>
	71577	\$393,000	\$341,760
	71578	\$383,000	\$341,120
	71580	\$377,500	\$341,120
	71582	\$377,500	\$341,120

#### **Board's Decision:**

- (5) For all four file numbers, the assessments are confirmed.

**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**

(10) The Complainant presented three comparable industrial transactions for the Board's consideration.

(11) One of the comparables, at 2169 - 2221 Pegasus Way NE, is located in Airways Industrial Park, which is in relatively close proximity to the subject area. The comparable is about 30 years newer than the subject, and is about 88 per cent larger.

(12) The second comparable, at No. 17, 2219 - 35 Avenue NE, is also in Airways. It is about the same vintage as the subject, but is over twice as large.

(13) The third comparable, at No. 9, 4825 Westwinds Drive NE, is about 28 years newer than the subject, and is also over twice as large.

(14) Because of the economies of scale exhibited in the real estate market, none of these properties could be considered very comparable to the subject.

**Respondent's Position:**

(15) The Respondent pointed out that the Complainant's comparable at 2169 Pegasus Way sold to the existing tenant. The Respondent argued that the selling price was impacted, and therefore was not a valid market transaction for comparison purposes.

(16) The Respondent presented eight comparables, including one in the same condominium development as the subject units. Five of the comparables are approximately the same size as the subject. Most are slightly newer than the subject. Per s.f. prices reflected by these range from \$176 to \$191. The average is \$184.79, and the median is \$185. Both values are virtually equal to the subject units assessments.

(17) The remaining three comparables are all substantially larger than the subject units. Per

s.f. prices range from \$158 to \$171. The median is \$167. The 10.8 per cent difference between the two groups is considered to be an illustration of the economies of scale exhibited in the market.

(18) The Respondent also presented five equity comparables. All of these units are within the same development as the subjects. Assessed rates per s.f. range from \$177 to \$189. The lowest per s.f. assessment is reflected by a unit that has no finished area. The remaining four have between 252 to 800 s.f. of finished area, and are considered more similar to the subjects. These reflected assessments between \$181 to \$189 per s.f.

#### **Board's Reasons for Decision:**

(19) During the assessment complaint process, up to and including the hearing, the opportunity is provided to both parties to present evidence and arguments in support of their positions. However, the ultimate burden of proof or onus rests on the Complainant, at an Assessment Review Board hearing, to convince the Board that 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 convince this Board to change the existing assessments.

DATED AT THE CITY OF CALGARY THIS 11<sup>th</sup> DAY OF October 2013.

  
Jerry Zezulka

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. 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 71577P/2013			Roll No's. 200956985, 200956993 200957009, 200957017	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Market Value	Comparables	Economies of scale