



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:

GMW PROPERTIES LTD., COMPLAINANT
(as represented by Colliers International Realty Advisors Inc.)

and

The City Of Calgary, RESPONDENT

before:

BOARD CHAIR: P. COLGATE
BOARD MEMBER: B. BICKFORD
BOARD MEMBER: J. KERRISON

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: 200479517
LOCATION ADDRESS: 5155 48 AVENUE SE
FILE NUMBER: 71639
ASSESSMENT: \$7,720,000.00

This complaint was heard on 21st day of August 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 10.

Appeared on behalf of the Complainant:

- *Troy Howell, Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *Raymond Luchak, 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] No preliminary matter was raised by either party. Board proceeded to the merit hearing.

Property Description:

[3] The subject property contains a multi-bay warehouse – with internal office space (IN0606) constructed in 2004. There is a second structure identified as an industrial outbuilding, on the site. The structures, rated as 'A-' quality, are located at 5155 48 Avenue SE in the Eastfield Industrial Area. The structures, situated on a 4.71-acre parcel, have a combined assessed area of 59,005 square feet – 51,153 square feet for the main warehouse assessed at a rate of \$149.56 per square foot and 7,852 square feet of outbuilding assessed at a rate of \$10.00 per square foot. The assessment for the main warehouse was determined using the Sales Comparison Approach. The property has a site coverage of 21.43% and an interior finish of 29%. The assessment included an adjustment for 0.75 acres of excess land.

Issues:

The Complainant stated there was one issue in the complaint:

- The assessment rate for the main warehouse on the subject property should be \$106.00 per square foot, based upon sale comparables.
- The rate of \$10.00 per square foot for the outbuilding was accepted by the Complainant.

Complainant's Requested Value: \$5,500,000.00

Board's Decision:

[4] Based on the Board's decisions for the issue stated, the Board found insufficient evidence to support the changes requested by the Complainant.

[5] The Board confirms the assessment at **\$7,720,000.00**

Legislative Authority, Requirements and Considerations:

[6] 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.

[7] 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 Industrial Assessment Explanation Supplement Reports.

Position of the Parties

Issue 1: Assessment Rate

Complainant's Position:

[8] The Complainant argued the subject property should be assessed at a rate of \$106.00 per square foot, instead of the current assessment rate of \$149.38 per square foot.

[9] The Complainant submitted an analysis of three sales to support his requested assessment rate – 4410 46 Avenue SE, 4975 12A Street SE and 6125 51 Street SE. The Complainant's analysis indicated: (C1, Pg 18)

Address	Community	Sold Date	YOC	Building Type	Building Areas (sq. ft.)	Land Size (Acres)	Site Coverage	Sale Price (\$)	Time Adjusted Sale Price	\$/Sq. Ft.	Assessed Quality
4410 46 Ave SE	Eastfield	7/28/2011	1999	IW S	63,660	2.63	55.57%	\$6,420,000	\$6,831,775	\$107.32	B
4975 12A St. SE	Highfield	9/15/2011	1996	IW S	60,850	2.60	53.73%	\$5,132,500	\$5,294,540	\$87.01	B
6125 51 St. SE	Foothills	7/29/2011	1996	IW S	52,668	3.33	36.31%	\$6,200,000	\$6,572,000	\$124.78	B
									AVERAGE	\$106.37	
Subject - Current								Assessed Value			
5155 48 Ave SE	East field		2004 2001	IW S	7,852 51,153	4.71	3.83% 24.93%	\$78,520 \$7,641,480 \$7,720,000		\$10.00 \$149.38	A- A-
Subject - Request								Requested Assessment			
5155 48 Ave SE	East field		2004 2001	IW S	7,852 51,153	4.71	3.83% 24.93%	\$78,520 \$5,422,218 \$5,500,000 (Truncated)		\$10.00 \$106.00	A- A-

[10] The Complainant, through its analysis of the three sales established an average assessment rate of \$106.37 per square foot which was rounded to a requested rate of \$106.00 per square foot.

[11] RealNet documents and the City of Calgary "Property Assessment Summary Report" for each sale property supported the Complainant's sales. (C1, Pg. 9-17)

Respondent's Position:

[12] The Respondent, in argument to the three sales submitted by the Complainant provided evidence for the lack of suitability for one of the sales as comparables to the subject property.

[13] The Respondent submitted the "Non-Residential Property Sale Questionnaire" for 6125 51 Street SE in which the purchaser indicated the sale was NOT an arms-length transaction. The purchaser indicated at the time of the sale the vendor and purchaser were related, but not at the time of the transfer. Further there was indication of a leaseback arrangement for a term of 12 years. As there were related parties in the transaction the City of Calgary excludes the sale from the analysis of sales as not a valid sale. (R1, Pg. 17-21)

[14] The Respondent noted in testimony for the Board, that there was a difference in the areas used by the Complainant and the Respondent. The Respondent stated the Complainant derived his area from the City of Calgary website which can vary from the areas used in the actual calculation of the assessment. The Respondent indicated the most common reason for the difference was in the mezzanine area. If the area is finished office area it is included in the assessable area, whereas mezzanine storage is excluded from the assessable area. The Respondent noted for 4410 46 Avenue SE the Complainant used an area of 63,660 square feet, whereas the City of Calgary used an area of 60,700 square feet.

[15] The Respondent submitted a 'correction' of the Complainant's two sales comparables, removing the non-arms length sale. Based upon the corrected information, the time adjusted sales prices per square foot were \$112.55 and \$87.01 (R1, Pg.16)

Address	Building Type	Parcel Size (Acres)	LUD	Building Areas (sq. ft.)	AYOC	Region	NRZ	Finish (%)	Site Coverage (%)	Sale Date	Sale Price	TASP	TASP/ Sq. Ft.
4410 46 Ave SE	IW S	2.63	I-G	60,700	1999	SE	VA1	14	49.24	07/28/ 2011	\$6,420,000	\$6,831,775	\$112.55
4975 12A St. SE	IW S	2.60	I-G	60,850	1996	Central	HF2	36	52.55	09/15/ 2011	\$5,132,500	\$5,294,540	\$87.01
Subject												ASSESS- MENT	Rate/ Sq. Ft.
5155 48 Ave SE	IW S	4.71	I-G	51,153	2001	SE	VA1	29	25.26			\$7,729,125	\$151.10

[16] In testimony, the Respondent pointed out the flaws in the remaining sales used by the Complainant and shown in the 'corrected' table. Both of the sales have parcel sizes nearly half that of the subject property at 2.63 acres and 2.60 acres, resulting in site coverage percentages nearly or exceeding twice that of the subject property, at 49.24% and 52.55%. The Respondent, submitting an analysis chart for the sale at 4410 46 Avenue SE, argued that sale would need to be adjusted for 3.49 acres of additional land in order to have the same site coverage percentage. The inclusion of the additional land would result in an adjusted sale price of \$8,873,425.00 or an adjusted sale price per square foot of \$146.18, which supports the subject property assessment of \$149.00 per square foot. (R1, Pg. 23)

[17] The Respondent noted the sale at 4975 12A Street SE was located in the Central region, a different market area with differing rates for the variables.

[18] The Respondent submitted three sale comparables in support of the assessment on the subject property. The comparables indicated a average rate of \$149.56, slightly less than the subject property assessment rate at \$151.10. (R1, Pg. 28)

Address	Building Type	Parcel Size (Acres)	LUD	Building Areas (sq. ft.)	AYOC	Region	NRZ	Finish (%)	Site Coverage (%)	Sale Date.	Sale Price	TASP	TASP/ Sq. Ft.
6061 90 Ave SE	IW S	5.01	I-G	50,000	2004	SE	FO1	11	22.63	10/03/2011	\$7,400,000	\$7,631,901	\$152.64
10860 46 St. SE	IW M	3.34	I-G	47,860	2009	SE	DU1	18	32.00	03/13/2012	\$9,500,000	\$9,500,000	\$198.50
4390 106 Ave SE	IW S	3.58	I-G	46,560	2006	SE	DU1	16	27.64	01/31/2012	\$6,700,000	\$6,700,000	\$143.90
												AVERAGE	\$165.01
Subject												ASSESS-MENT	Rate/ Sq. Ft.
5155 48 Ave SE	IW S	4.71	I-G	51,153	2001	SE	VA1	29	25.26			\$7,729,125	\$151.10

[19] The Respondent submitted the best comparable to the subject property was at 6061 90 Avenue SE, with an assessment rate of \$152.64 per square foot.

Board's Reasons for Decision:

[20] The Board found the Complainant's argument failed due to circumstances partially beyond its control. The Complainant had relied on misinformation provided on the City of Calgary website. Correction of the assessable areas produced higher assessment rates per square foot than those determined and submitted by the Complainant.

[21] The Board notes in the presentation by the Respondent that the assessable area for a number of properties was set when mezzanine square footage was excluded. The Respondent

stated the City of Calgary was unable to determine a value for the space so removed it from consideration in the determination of the assessment. The Board in deliberation was of the opinion that mezzanine storage area would have value in the market place for a purchaser. The Board recommends the City of Calgary research this aspect of the assessment for future assessment years in hopes of setting a value, rather than the current policy of ignoring its existence.

[22] The Board accepted the Respondent's argument the sale at 6125 51 Street SE was not an arms-length transaction, as indicated by the information submitted by the purchaser. Accordingly, the sale is removed from the Board's deliberation.

[23] The Board accepted the Respondent's argument that the amount of site coverage has a significant influence on the market value of a property and placed less weight on the Complainant's sale comparables.

[24] The Board found the sale comparable at 4975 12A Street SE carried little weight as it is located in a different market area and is assessed using different rates for the variables.

[25] In its deliberation, the Board was presented with three sales by the Respondent, with an average sale price of \$165.01 per square foot, supportive of the assessment rate applied to the subject property. The subject property fell within the range of assessment rates for the three sales, \$143.90 to \$198.50. The Board noted that one sale – 10860 46 Street SE - had a higher site coverage percentage and lower finish percentage than the subject property.

[26] From the limited sales presented and basing a higher weight on the sale at 6061 90 Avenue SE, the Board found insufficient evidence to justify a change to the current assessment.

[27] The Board noted the continuing 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 City of Calgary website's "Property Assessment Detail Report" and the Assessment Business Unit's "Assessment Explanation Supplement" showed a difference in building areas. The result of this discrepancy created requests made by the Complainant based upon faulty information provided by the City of Calgary. Because of this misinformation, complaints have been filed which may not have been submitted if Complainants could rely on the City of Calgary information. The resulting defence of assessments through "ambush" of the Complainants with the correct information serves to delay the complaint process. The Board strongly encourages the City of Calgary to resolve this on-going problem, which has existed for a number of years.

[28] For the reasons cited, the Decision of the Board was to confirm the assessment at \$7,720,000.00

DATED AT THE CITY OF CALGARY THIS 20th DAY OF September 2013.



PHILIP COLGATE

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Submission
2. R1	Respondent Submission

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 – Single Tenant	Sales Approach	Land & Improvement Comparables

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.