



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: 200479525
LOCATION ADDRESS: 5025 51 STREET SE
FILE NUMBER: 71641
ASSESSMENT: \$3,520,000.00

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. The Board proceeded to the merit hearing.

Property Description:

[3] The subject property contains a multi-bay warehouse (IN0701) constructed in 2006. The structure, rated as 'A2' quality, is located at 5025 51 Street SE in the Eastfield Industrial Area. The structure, situated on a 1.66-acre parcel, has an assessed area of 20,400 square feet, assessed at a rate of \$172.68 per square foot, using the Sales Comparison Approach. The property has a site coverage of 28.20% and an interior finish of 48%. An additional land adjustment has been calculated into the assessment for 0.10 acres.

Issues:

The Complainant stated there was one issue in the complaint:

- Assessment rate for the subject property should be \$160.00 per square foot.

Complainant's Requested Value: \$3,260,000.00

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 **\$3,520,000.00**

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 Valuation Reports.

Position of the Parties

Issue: Assessment Rate

Complainant's Position:

[8] The Complainant argued the subject property should be assessed at a rate of \$160.00 per square foot, instead of the current assessment rate of \$172.55 per square foot. The Complainant submitted an analysis of three sales to support his requested assessment rate – 3160 118 Ave SE, 5020 12 Street SE and 7530 114 Avenue SE. The Complainant's analysis indicated: (C1, Pg 19)

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
3160 118 Ave SE	Shepherd	5/26/2011	2000	IW M	19,647	1.12	40.27%	\$2,925,000	\$3,210,877	\$163.43	A-
5020 12 St. SE	Highfield	3/24/2010	1998	IW S	25,350	1.60	36.37%	\$4,150,000	\$4,625,416	\$182.46	B
7530 114 Ave SE	East Shephard	9/13/2010	1999	IW S	21,086	4.05	11.95%	\$2,475,000	\$2,796,750	\$132.64	B
									AVERAGE	\$159.51	
Subject - Current								Assessed Value			
5025 51 St. SE	Eastfield		2006	IW M	20,400	1.66	28.21%	\$3,520,000		\$172.55	A2
Subject - Request								Requested Assessment			
5025 51 St. SE	Eastfield		2006	IW M	20,400	1.66	28.21%	\$3,260,000		\$160.00	A2

[9] The Complainant, through its analysis of the three sales established an average assessment rate of \$159.51 per square foot which was rounded up to a requested rate of \$160.00 per square foot.

[10] RealNet documents and the City of Calgary "Property Assessment Summary Report" for each sale property were submitted in support of the Complainant's sales. (C1, Pg. 10-18)

Respondent's Position:

[11] The Respondent, in rebuttal to the three sales submitted by the Complainant provided arguments for the lack of suitability for one of the sales as comparable to the subject property.

[12] The Respondent advised the Board that the sale on the property at 7530 114 Avenue SE was not regarded by the City of Calgary as a valid sale as the "price was negotiated as a result of a lawsuit stemming from a terms of option agreement". The Respondent admitted that due to an oversight there was no documentation to support this position. (R1, Pg. 3)

[13] The Respondent noted in testimony for the Board, that there was a minor 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. In the hearing before the Board the sale property at 3160 118 Avenue SE was shown to be 19,647 square feet on the web site and 20,086 square feet was used for the calculation of the assessment by the City of Calgary, resulting a slightly lower time adjusted sale price per square foot.

[14] The Respondent submitted a 'correction' of the Complainant's two sales comparables, removing the sale at 7530 114 Avenue SE. Based upon the corrected information, the time adjusted sales prices per square foot were \$159.86 and \$182.46, for an average of \$171.16. (R1, Pg.15)

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.
3160 118 Ave SE	IW M	1.12	I-G	20,086	2000	SE	SO1	36%	32.65%	05/26/ 2011	\$2,925,000	\$3,210,877	\$159.86
5020 12A St. SE	IW S	1.60	I-G	25,350	1998	Central	HF2	67%	24.19%	03/24/ 2010	\$4,150,000	\$4,625,416	\$182.46
												Average	\$171.16
Subject												Assess-ment	
5025 51 St. SE	IW M	1.66	I-G	20,400	2006	SE	VA1	48%	28.20%			\$3,522,648	\$172.68

[15] The Respondent submitted two sale comparables in support of the assessment on the subject property, one being common to the Complainant's submission – 3160 118 Avenue SE. The comparables indicated an average rate of \$171.46, slightly less than the subject property assessment rate at \$172.68. (R1, Pg. 17)

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.
3160 118 Ave SE	IW M	1.12	I-G	20,086	2000	SE	SO1	36	32.65	05/26/ 2011	\$2,925,000	\$3,210,877	\$159.86
4318 110 Ave SE	IW S	1.26	I-G	16,934	2005	SE	DU1	21	27.51	12/13/ 2011	\$3,100,000	\$3,100,000	\$183.06
Subject												Ass't	Rate / Sq. Ft.
5025 51 St. SE	IW M	1.66	I-G	20,400	2006	SE	VA1	48	28.20			\$3,522,648	\$172.68

Board's Reasons for Decision:

[16] The Board was not prepared to dismiss the sale at 7530 114 Avenue SE on the basis of an unsupported claim of the sale being a result of a legal action in the courts. However, the Board placed little weight on the sale as the Property Assessment Summary Report lists the site as having "no services". (C1, Pg. 18) The City of Calgary adjusts the assessment by 50% due to the lack of services. It is reasonable to assume that in the market place this would have an impact on the price paid for the property. The Board found the sale was not comparable to the subject property.

[17] In its deliberation, the Board was presented with a total of three acceptable sales, two sales solely from the Complainant, one sale solely from the Respondent and one sale submitted by both parties. The Board determined an average sale price per square foot of \$175.13, supportive of the assessment rate applied to the subject party. The subject property fell within the range of rates for the three sales, \$159.86 to \$183.06 per square foot. The Board looked at the effect of substituting the Complainant's analysis of 3160 118 Avenue SE in place of the Respondent's value and found the average shifted to \$176.32 per square foot and within the range of \$163.43 to \$183.06 per square foot. The Board found the sale comparables presented more supportive of the current assessment rate.

[18] From the limited sales presented the Board found insufficient evidence to support a change to the current assessment.

[19] 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.

[20] For the reasons cited, the Decision of the Board was to confirm the assessment at \$3,520,000.00

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
2. R1

Complainant Submission
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 – Multi 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.