



## **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:**

***5760-9SSE Property Ltd. (as represented by Colliers International Realty Advisors Inc.),***  
**COMPLAINANT**

**and**

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

**before:**

***Board Chair; J. Zezulka***  
***Board Member; D. Julien***  
***Board Member; B. Kodak***

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: 100012301**

**LOCATION ADDRESS: 5760 - 9 Street SE**

**FILE NUMBER: 71820**

**ASSESSMENT: \$16,180,000**

This complaint was heard on 1st day of August, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *B. Peacock*

Appeared on behalf of the Respondent:

- *I. McDermott*
- *F. Taciune*

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

- (1) There were no procedural or jurisdictional matters raised by either party.

**Property Description:**

- (2) The property consists of a multi-bay warehouse property in the Burns Industrial area of south east Calgary. The assessable building area is 180,626. The structure was built in 1973. The site is 11.71 acres. The building is built at the base of an escarpment between Blackfoot Trail and 11 Street SE. The escarpment lies within the subject's property line.

**Issues / Appeal Objectives**

- (3) The single issue brought forward by the Complainant is market value, stating that the current assessment does not properly reflect the market value of the site. Currently, the property is assessed using the sales comparison approach, at \$89.60 per s.f. The Complainant contends that \$75.00 per s.f. is more appropriate. Although not clearly stated, the primary issue in the Complainant's argument appears to stem from the presence of the escarpment on the subject land, and the concomitant reduction in value.

**Complainant's Requested Value:**

- (4) \$13,540,000

**Board's Decision:**

- (5) The assessment is reduced to \$15,350,000.

**Legislative Authority, Requirements and Considerations:**

- (6) This Board derives its authority from section 460.1(2) of the Municipal Government Act (MGA), 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**

#### **Complainant's Position:**

(10) The Complainant took the position that there are very few comparables available for buildings the size of the subject. The Complainant submitted four comparables for consideration. According to the Complainant, these are the same properties that were tabled as evidence in the complaint on this property in 2012, and no comparable transactions have occurred since.

(11) The four comparables have building sizes ranging from 121,622 s.f. to 187,828 s.f. Time adjusted selling prices range from \$72.24 to \$76.55 per s.f. of building area.

(12) Site coverages of the comparables range from 42 to 62 per cent, compared to the subject at 35 per cent.

(13) The Complainant spent a considerable amount of time, and submitted a substantial amount of material, illustrating the fact that the subject site has a large amount of land that is largely unusable. However, no evidence was introduced that would assist the Board in establishing an exact area, or establishing a discount rate to be applied to the land value to account for the adverse topography.

#### **Respondent's Position:**

(14) The Respondent used the same four sales as the Complainant in his analysis. However, the Respondent's time adjusted selling prices varied considerably from the Complainant's, at \$70.95 to \$75.62 per s.f. However, upon review, the Board finds that some substantial variations exist in the building areas adopted by the parties. This aspect was not pursued by either party.

(15) The Respondent recognized that the subject's assessment of \$89.60 per s.f. of building area is substantially higher than the rates reflected by the comparable data. However, the Respondent took the position that the subject's overall land area is much higher than any of the comparables, and this results in excess land on the subject that produces a much higher per s.f. indicator.

(15) In support of his position, the Respondent produced a "site coverage adjustment chart", that purported to adjust the comparables to a site size that would produce the same or similar site coverage as the subject, and then add the value of the hypothetical extra land to the time adjusted selling price per s.f. of each of the comparables, to produce a per s.f. range of \$80.68

to \$89.76 per s.f. of building.

(16) The Respondent also produced a 2008 sale of the subject property at \$16,000,000. This transaction is about four years prior to the effective date. No effort was made by the Respondent to time adjust the selling price, and no other comments relative to the transaction were offered.

(17) The Respondent introduced the 2008 Property Sale, Request for Information, and a Colliers International Leasing brochure for the subject. The current assessment is based on the sales comparison approach. For that reason, the purpose of the introduction of the leasing brochure eludes this Board.

(18) The Respondent introduced five equity comparables. All of the buildings are smaller than the subject, but site coverages are somewhat similar. Assessments per s.f range from \$82.16 to \$92.89 per s.f. The median calculates to \$84.30 per s.f.

**Board's Reasons for Decision:**

(19) No evidence as to the escarpment area or topography was introduced by either party. However, based on photographs submitted by both parties, it appears to this Board as though approximately 25 per cent of the subject site is either unusable, or has an adverse topography for development.

(20) The 2008 transaction involving the subject might be of interest to the Board, but the transaction date falls outside of the relevant time frame for the 2012 assessment. As such, the transaction was disregarded.

(21) The Board cannot find any merit in the "site coverage adjustment chart" produced by the Respondent. In accordance with section 4(1) of MRAC, the valuation standard for a parcel of land is market value, as defined in 1(1)n, of the MGA. Implicit in the definition is that the determination of market value will be carried out in accordance with acceptable valuation standards and procedures. This "site coverage adjustment" employs an abundance of mathematical gymnastics, but it is a novel approach that simply does not reflect the actions of the market place, and therefore carries little weight with this Board.

(22) This Board recognizes that the subject site could be less valuable than an equal sized site, similarly located, that has no topographic challenges. However, there was no evidence from either party that would assist the Board in quantifying any adverse affect.

(23) Because of the difference in building area adopted by the two parties for each of the comparables, this Board is loathe to rely on either set of data as being a reliable indicator.

(24) The only set of data that remains without any contradictory evidence is the Respondent's equity comparables. The Board accepts the approximate median of those comparables as the best evidence of value in this instance.

(25) The relative indicator of \$15,353,210 is truncated to \$15,350,000.

DATED AT THE CITY OF CALGARY THIS 23<sup>rd</sup> DAY OF September 2013.



**Jerry Zezulka**

**Presiding Officer**

## APPENDIX "A"

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

NO.	ITEM
1.	C1Complainant Disclosure
2.	C2 Complainant Rebuttal
3.	R1Respondent 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 71820P/2013			Roll No. 100012301	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Market Value, land value	N/A	Comparables