



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:

Jost Solutions Ltd. (as represented by Linnell Taylor Assessment Strategies)
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 a property assessment prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER: 200595668

LOCATION ADDRESS: 2004 - Alyth Place SE

FILE NUMBER: 71955

ASSESSMENT: \$1,750,000

This complaint was heard on 19th 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:

- J. David Sheridan

Appeared on behalf of the Respondent:

- E. Wu
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Preliminary, Procedural or Jurisdictional Matters:

(1) At the outset, it was revealed that there was a building size discrepancy between the two parties. The parties agreed that the Respondent's assessed area was the correct one, and the merit hearing proceeded.

Property Description:

(2) The property consists of a single bay warehouse property in the Alyth / Bonnybrook Industrial area of south east Calgary. The assessable building area is 8,392. The structure was built in 1975. The site is 0.66 acres in shape and is serviced with water and sewer. The road is gravelled. There are no curbs, gutters, or sidewalks.

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 \$208.92 per s.f. of building area. The Complainant contends that \$135.00 per s.f. is more appropriate. The primary issue in the Complainant's argument appears to be the triangular shape of the site, with limited access, no through access, and the lack of complete municipal servicing.

Complainant's Requested Value:

(4) \$1,240,000, amended to \$1,130,000 following the size correction.

Board's Decision:

(5) The assessment is reduced to \$1,310,000.

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

(10) The Complainant submitted four comparable sales (C1, page 4), all located in the Alyth / Bonnybrook subdivision. The following observations, brought forward by the Complainant, are considered pertinent;

- a. There is no location adjustment required
- b. The comparable building sizes, between 6,025 s.f. and 22,885 s.f. bracket the subject. Only No. '4', at 22,885 s.f. is substantially larger than the subject, and some size adjustment might be warranted.
- c. The ages of the comparables are similar to the subject.
- d. Clear wall heights between the subject and the comparables are similar.
- e. The subject site is atypical in that it is a triangle that limits the usability of the site to something less than that of a more rectangular site with regular dimensions.

(11) The Complainant's analysis of the comparables ultimately led to the exclusion of No. '4' by the Complainant. The remaining three comparables reflected selling prices from \$99.71 to \$135.03 per s.f., with a weighted mean of \$114.29, and a median of \$120.33 per s.f. The Complainant concluded that No. '3', at \$135.03 per s.f. was the most similar to the subject, and adopted \$135.00 per s.f. as the final value indicator.

(12) The Respondent countered the Complainant's evidence by pointing out that some of the Complainant's comparables are designated I-R Industrial Redevelopment, whereas the subject is designated I-G General Industrial. The Board's review of the "Purpose" section of both designations within the Land Use Bylaw revealed that the I-R criteria suit the subject as well or better than the I-G criteria.

(13) The Respondent submitted four comparables for comparison to the subject (R1, page 53). All of the comparables are located in Foothills and Highfield Industrial Parks. Selling prices range from \$153.58 to \$266.33 per s.f. The median is \$207.59 per s.f.

(14) The average size of the Respondent's comparable buildings is not unlike the subject. Parcel sizes are also somewhat similar. The ratio of interior finishing ranges from 14 to 40 per cent, whereas the interior finish in the subject is zero.. In addition, photographs submitted by the Complainant (exhibit C2) reveal that all of the Respondent's comparables are rectangular sites with complete municipal servicing including paved street with concrete curbs and gutters.

(15) Insofar as the subject's triangular shape is concerned, it is the Respondent's testimony

that the City applies a minus 25 per cent adjustment for unusual or inefficient site shape. Further, the adjustment does not vary with the degree of limited utility. Either a full 25 per cent adjustment is applied, or the adjustment is "zero". The Respondent testified that the negative shape factor was applied to the subject property in 2012, but that the factor had been eliminated for 2013. Nothing, physically, had changed in the subject property over the past year. The 25 per cent adjustment was still being applied in other areas of the City. The only explanation for elimination of the adjustment in the subject instance, according to the Respondent, is that the file could have been assigned to a different assessor this year, and the new assessor felt that the adjustment was not warranted. The explanation that an assessor's decision is based on the exercise of discretion requires support in the way of evidence.

Board's Reasons for Decision:

(16) By reason of location and physical similarities, the Board finds that the Complainant's sales comparables provide a better indication of value than the comparables tabled by the Respondent. That fact alone would typically prompt a reduction in the assessment, even if there were no other factors to consider.

(17) However, having said that, the Respondent's explanation for the elimination of the negative adjustment for shape is totally without merit. To change or "bend" established assessment policy and rules according to the opinion of an individual assessor leads to a breeding ground for inconsistency, and inequity. That situation is simply not acceptable by any standard. In order to maintain equity with other unusually shaped parcels in the City, this Board will reinstate the negative 25 per cent adjustment for shape applied to the subject in the past.

(18) The new calculations, including a 25 per cent shape adjustment, produce a revised assessment of \$1,312,500, truncated to \$1,310,000.

DATED AT THE CITY OF CALGARY THIS 11th 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. | 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 MGB Administrative Use Only

Decision No. CARB 71955P/2013			Roll No. 200595668	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Market Value, land value	N/A	Comparables, lot shape