



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:

Loblaw Properties West Inc. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
D. Steele, BOARD MEMBER
T. Usselman, BOARD MEMBER***

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:	200830867
LOCATION ADDRESS:	10 Freeport Way NE
FILE NUMBER:	72190
ASSESSMENT:	\$21,420,000

This complaint was heard on 6th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *J. Weber*

Appeared on behalf of the Respondent:

- *B. Brocklebank*
- *L. Cheng*

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

- [1] The Board noted the file includes a completed copy of the Assessment Review Board Complaint form and an Assessment Complaints Agent Authorization form.
- [2] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.
- [3] No preliminary issues were raised by either party.

Property Description:

- [4] The subject property is located at 10 Freeport Way NE, in the Freeport Industrial District located north of the Calgary International Airport. The site area is 13.25 acres with a single building of 168,622 square feet (SF) built in 2006. The building is a contemporary warehouse structure, with loading bays on both the east and west side of the building. The footprint is the same size as the assessable building area. The degree of finish is 14%, with site coverage of 29.23%. The 2013 Assessment is \$21,420,000 as calculated using the Direct Sales Comparison Approach. The 2013 Assessment is based on a market rate of \$127.08/SF applied to the 168,622 SF of assessable area, with adjustments for 0.35 acres of extra land. The site coverage is 29.23%, resulting in the 0.35 acres of extra land. The finish is 14%.

Issues:

- [5] What is the correct assessed value? The Complainant argued that the Income Approach provides a better indication of value than the Direct Sales Approach used by the City in preparing the 2013 assessment.

Complainant's Requested Value:

\$17,060,000 (as amended at the hearing)

Board's Decision:

- [6] The Board confirms the 2013 Assessment of \$21,420,000.

Legislative Authority:

- [7] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

Issue 1: What is the correct assessed value?**Complainant's Position:**

- [8] The Complainant took the position that since the subject property is an income generating, investment-grade property, the Income Approach is the best indication of value. The subject is a somewhat unique property, in that it is a larger warehouse building on a larger lot than is typical for this property type. Because of the size of the subject property and some of its other characteristics, there are no good sales that would indicate value using a Direct Sales Approach.
- [9] The Complainant presented an Assessment Request for Information (ARFI) for the subject property (page 16-18, Exhibit C1) that showed 137,828 SF of the subject building is leased (September 2010 lease) to one tenant at a rate of \$6.77/SF. The remaining 30,794 SF of the subject building is vacant. The Complainant also presented six direct sales comparable properties (that sold between July 2009 and July 2011) on page 23, Exhibit C1 that indicated rent rates ranging from \$7.60 to \$7.82/SF for the three buildings that sold in 2011. Details regarding how the rent rate is derived are presented on spread sheets on page 15-16, Exhibit C2. Based on this information, and primarily the subject lease, the Complainant concluded that the typical rent for this size of warehouse property is \$7.66/SF and used that rent rate in the Income Approach calculation.

- [10] The Complainant presented a summary of a capitalization rate study (page 14, Exhibit C2) based on six sales, three of which occurred in 2011. The calculation of each rate is presented on a spread sheet on page 15-16, Exhibit C2. The majority of Exhibit C2 is support and background data for each of the sales. The three 2011 sales indicate a capitalization rate of 6.5%.

- [11] A vacancy rate of 4% was used, and is apparently the rate used by the City as a typical vacancy rate for this type of property.

- [12] During the hearing, the Complainant agreed that the rental rate for the 30,794 SF of vacant space would likely be at a higher rate than the 137,828 SF that is leased to one party, on the basis that smaller bays lease for a higher rate per SF than larger bays. A rental rate of \$7.00/SF was applied to the vacant space as the typical rent rate for this size of bay.

- [13] Applying a rent rate of \$6.77/SF to the leased area and \$7.00/SF of vacant area, and using a capitalization rate of 6.5% and a vacancy rate of 4% results in the requested assessment (as revised at the hearing) of \$17,060,000, or about \$101/SF.

- [14] To support the requested assessment, the Complainant presented a summary table of a "Direct Sales Comparison Analysis" of six direct sales (page 23, Exhibit C1). The sale prices of the six sales comparables were adjusted by the difference between the actual rental rate for each comparable sale and the subject's stabilized actual rent (\$6.77/SF). This analysis indicates a value per square foot of about \$105/SF for the three 2011 sales. The Complainant argued that this supports the requested assessment.

- [15] The Complainant presented excerpts of two appraisal reports (page 24-38, Exhibit C1) of larger warehouse properties to demonstrate that the methodology of adjusting sale price by the difference in rental rates is an accepted Direct Sales appraisal method.

- [16] The Complainant argued that the comparable sales and equity comparables relied on by the City and presented by the Respondent in Exhibit R1 were not very similar to the subject property for a number of reasons. The Complainant also argued that two of the sale comparables on page 46, Exhibit R1 were of multi-building properties and two of the sales were portfolio sales.

- [17] In rebuttal, the Complainant presented summary tables (Exhibit C3) of comparable sales used by the City for this property type, showing that the Assessment to Sales Ratio (ASR) was very wide and therefore the sales approach used by the City to prepare the 2011 assessment did not accurately reflect market value (sale price of the comparable sales).

Respondent's Position:

- [18] The Respondent argued that the capitalization rate presented by the Complainant is not done on similar properties and is not done on a consistent basis, therefore little weight should be placed on this evidence.
- [19] The Respondent presented a summary table of eight comparable sales (page 46, Exhibit R1) which indicates that the median time adjusted sale price for this property type is \$123.81/SF. The subject assessment is \$127.08/SF. The Respondent argued this demonstrates that the assessment reflects the market value of the subject property when the characteristics of the subject property are compared to the characteristics of the eight comparable sales properties.
- [20] Regarding the Complainant's concerns that the ASR's are in a very wide range, the Respondent stated that it is not appropriate to look at just a small subset of the total database and make conclusions on whether the ASR for that property type is acceptable.
- [21] The Respondent presented a summary table of seven equity comparables (page 61, Exhibit R1) to support the assessed rate of \$127.08/SF for the subject property.

Findings of the Board on this Issue

- [22] Section 284 of the Act states that market value is the test applied to an assessment. Section 467(3) states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration valuation standards set out in regulations, procedures set out in regulations and the assessment of similar property in the same municipality. The municipality has the discretion to determine how to conduct its assessments, as long as the assessments reflect market value. The availability of data may be a factor in determining what assessment approach is used. The issue before the Board is not to determine the better approach, but rather to determine which value best reflects the market value of the subject property as of the valuation date.
- [23] The Complainant presented argument (page 3-12, Exhibit C2) to support their use of the Income Approach. This argument included references to a number of previous Board Decisions. The Board notes that on page 8, Exhibit C2, the formula for deriving a value using the "Direct Capitalization Method" is presented. The formula demonstrates that the net operating income (NOI) is a key factor in this calculation. The Board notes in the spreadsheets presented on page 15-16, Exhibit C2 showing how the capitalization rate is derived for the six comparable properties there is no reference to NOI. Furthermore, the Board heard no evidence regarding either actual or typical NOI for these capitalization rate comparables. In the calculation of the requested assessment presented on page 19, Exhibit C1, the NOI presented is merely the potential gross income adjusted by 4% for vacancy. The actual NOI for the subject property is not presented in evidence, nor used in the calculation of the requested assessment.

- [24] The Board heard evidence regarding the use of actual and/or typical rental rates in a capitalization rate analysis. The Board notes that the Complainant argued that the \$6.77/SF actual rent rate for the subject property was also the typical rent rate for that size of warehouse space and used this rate in the analysis. No other support was offered for this as the typical rental rate.
- [25] The Board puts little weight on the Income Approach, as presented by the Complainant, for the following reasons:
- a. The Board is not persuaded that the actual rental rate of \$6.77/SF is indeed the market rate for this size of warehouse space.
 - b. The Board heard no evidence to support the \$7.00/SF rental rate applied to the vacant space (30,794 SF).
 - c. The Board heard no evidence to support the 4% vacancy rate, which was presented as typical vacancy for this property type.
 - d. The typical capitalization rate derived from the six sales comparables, and primarily the three 2011 sales, is derived without addressing the Net Operating Income (NOI). The Board heard no evidence regarding NOI for either the comparable sales properties or the subject.
- [26] The Board notes that the sales and equity comparables presented by the Respondent are generally smaller properties with higher site coverage. While the Respondent argued higher site coverage results in a higher value, all else being equal, no evidence was presented to demonstrate that this is in fact the case, or the quantum of this relationship. The Board acknowledges that the subject property is larger than the typical warehouse property, which limits the data available to both parties.
- [27] In considering the sales comparables presented on page 46, Exhibit R1, the Board notes that a 142,672 SF property located at 10905 48 Street SE sold in April 2010 for a time adjusted sale price of \$142.31/SF. A 118,402 SF property located at 930 64 Avenue NE sold in March 2011 for a time adjusted sale price of \$120.51/SF. The Board considers these two properties to be the better comparable sales, and support the assessed value of \$127.08/SF.
- [28] Page 61, Exhibit R1 presents the Respondent's equity comparables. There are two IWS (industrial warehouse single tenant) properties that are assessed at \$131.37/SF and \$121.01/SF. Both properties are smaller than the subject, and slightly older, but the % finish and site coverage is similar to the subject. The Board considers these to be the better equity comparables, and they support the \$127.08/SF assessment.
- [29] The "Direct Sales Comparison Analysis" presented by the Complainant on page 23, Exhibit C1 only makes an adjustment for the rental rate. The pages excerpt from two appraisal reports in Exhibit C1 to support this approach or analysis appear to address a number of factors that may need to be adjusted, not just rental rate. The Board does not have enough evidence to determine if the analysis presented by the Complainant is consistent with the methodology presented in the excerpts from the two appraisal reports, so puts little weight on this evidence.

- [30] The Board finds that the better (most similar) sales and equity comparables presented support the 2013 assessment.

Board's Reasons for Its Decision

- [31] The Board is not confident in the Income Approach analysis as presented by the Complainant and the resulting requested assessed value. The Board finds support for the 2013 assessed value in the sales and equity comparables presented by the Respondent. The Board confirms the 2013 assessment of \$21,420,000.

DATED AT THE CITY OF CALGARY THIS 9th DAY OF September, 2013.



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. R1	Respondent Disclosure
4. C3	Complainant Rebuttal 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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Industrial warehouse	Stand Alone	Income vs Direct Sales Approach	Equity, Rental rates Capitalization rate Sales