



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 *MGA*).

between:

***William Glesby Holdings Ltd. or Congubec Inc.
(represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Ms. V. Higham, PRESIDING OFFICER
Mr. B. Bickford, BOARD MEMBER
Mr. D. Julien, BOARD MEMBER***

This is a complaint to the Calgary Assessment Review Board (the Board) in respect of a property assessment prepared by the Assessor of The City of Calgary (the City) and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER:	201179108
LOCATION ADDRESS:	5500 72 Avenue S.E. Calgary, Alberta
FILE NUMBER:	72198
ASSESSMENT:	\$18,660,000

This complaint was heard on 16th day of September, 2013 at the office of the Calgary Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- **Mr. Dave Mewha** **Agent, Altus Group Ltd.**

Appeared on behalf of the Respondent:

- **Mr. Ian McDermott** **Assessor, City of Calgary**

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

- [1] Neither party objected to the composition of the Board as introduced at the hearing.
- [2] All disclosure materials were received in a timely fashion, as legislated under the Act.
- [3] The Board noted a duly-executed Agent Authorization Form present in the file.
- [4] No preliminary matters were raised by either party.

Property Description:

[5] The subject is an owner-occupied industrial parcel zoned I-G, located at 5500 72 Avenue S.E. in Calgary's Great Plains industrial district. The site is improved with one single tenant warehouse built in 2007, comprising 132,632 square feet (sf) of assessable space on 22.36 acres of land, with 18.41% of site coverage. There is also a storm retention pond on the parcel of approximately 6.3 acres, which the City described as "extra land" in its Assessment Explanation Supplement (AES). The subject is currently assessed at \$18,660,000 using the direct sales approach to value.

Issues:

[6] The Complainant identified two matters on the Complaint Form as under complaint, that being the assessment amount and assessment class. During the hearing, the Complainant indicated he would advance submissions on the first matter only (being the assessment amount), and also indicated that he was requesting a different assessment amount (\$14,450,000) than originally noted on the Complaint Form (\$16,000,000). The Complainant then raised the following issues for the Board's consideration:

- 1) Are there sufficient market sales comparable to the subject property in the City's sales analysis to justify use of the direct sales comparison (the Sales) approach to value?
- 2) If not, what is the correct valuation of the subject property using the income approach to value?

Complainant's Requested Value: \$14,450,000

Board's Decision: For the reasons outlined herein, the Board reduces the current assessment of the subject property from \$18,660,000 down to **\$14,450,000**.

Legislative Authority, Requirements and Considerations:

[7] A Composite Assessment Review Board (the CARB) derives its authority from the *MGA*, Revised Statutes of Alberta 2000, Section 460.1, which reads as follows:

- (2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

Section 293 of the *MGA* requires that :

- (1) In preparing an assessment, the assessor must, in a fair and equitable manner,
 - (a) apply the valuation and other standards set out in the regulations, and
 - (b) follow the procedures set out in the regulations.

Section 2 of the *Matters Relating to Assessment and Taxation Regulations* (the *MRAT*) states:

- (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.
- 4(1) The valuation standard for a parcel of land is
 - (a) market value, or
 - (b) if the parcel is used for farming operations, agricultural use value.

Position of the Parties**Complainant's Position:**

[8] The Complainant argued that there are too few market sales comparable to the subject property in the current assessment year to justify the City's use of the Sales approach to value for the subject assessment. The Complainant cited a reference (Exhibit C2, p.2-3) from the *Market Value and Mass Appraisal for Property Assessment in Alberta: Valuation Guide* manual (the Guide), wherein was quoted:

[The Sales approach] works well when there are sufficient numbers of recent comparable sales transactions to identify value patterns in the market and properties are similar in nature and can be easily compared. ... Where there is insufficient sales data, another valuation approach should be used.

[9] The Complainant argued that the City's use of only two comparables is insufficient to identify reliable market patterns, and further, that the two sales used by the City are not similar enough in nature to the subject to be reliably comparable.

[10] The Complainant also submitted excerpts from several CARB decisions which spoke to the issue of approach to value for income producing, industrial properties.

[11] The Complainant then advanced an alternative assessment valuation for the subject of \$14,450,000 (derived from the income approach), utilizing a rental rate of \$5.50 per square foot (psf), a vacancy rate of 4%, a capitalization rate (cap rate) of 6.5%, and a land adjustment value of \$3,676,679.

[12] In support of this requested valuation, the Complainant submitted several charts of comparable lease data for varying sizes of industrial properties in the city's south east region: 25,000-50,000 sf, 50,000-100,000 sf, 99,000-200,000 sf, and over 100,000 sf with newer than 1995 buildings (Exhibit C1, pp.22-23). These included nine leases of properties in the third category with start dates ranging between January 2010 and September 2011 (Exhibit C1, p.23). This lease data showed median lease rates of \$5.50 and \$5.38 respectively for the last two categories (being 99,000-200,000 sf, and over 100,000 sf with newer than 1995 buildings), compared to the subject's 132,632 sf built in 2007).

[13] The Complainant also provided a comparable equity chart (Exhibit C1, p.25), listing four single tenant industrial properties in the south east region of Calgary with assessments ranging between \$93 and \$115 psf, compared to an indicated aggregate value of \$109 psf requested by the Complainant for the subject property.

[14] The Complainant also submitted a sales comparison chart and accompanying documentation for six industrial transactions in Calgary's north east and south east regions between August 2009 and July 2011, utilizing the Sales methodology as a secondary approach, which produced time adjusted median/mean values of \$76.14 and \$75.87 psf respectively to support his requested valuation (Exhibit C1, p.47 and pp.48-106).

[15] The Complainant further submitted numerous third party reports from various industry analysts in support of his requested valuation, including cap and vacancy studies from three noted industry firms, excerpts from several appraisals, supporting Land Title, RealNet, and transfer documentation for his sales comparables, as well as excerpts from provincial and municipal manuals relative to appropriate guidelines for cap rate derivation (Exhibit C2, pp.17-106).

[16] In rebuttal, the Complainant objected to both of the City's two sales comparables, as follows: the first property contains three buildings on site (13,116 sf, 13,979 sf, and 69,906 sf compared to the subject's one 132,632 sf building) and represents a ten-year lease-back transaction (Exhibit C3, pp.9-14); the second property is a multi-tenanted parcel, with a \$10.25 psf lease rate which the Complainant alleged is not reflective of market value, since this property transacted as part of a business portfolio package (Exhibit C3, pp.15-19).

[17] Finally, the Complainant submitted several pages of evidence verifying the sale of the subject property as part of a corporate takeover by a Quebec firm (Congebec Inc.), in February 2013 for a declared market value of \$14,392,000 (Exhibit C1, pp.82-105).

Respondent's Position:

[18] The Respondent submitted that the City employed the Sales approach to value, since it does not consider owner occupied properties such as the subject to be "income producing" on a strict application of the City's assessment model.

[19] The Respondent argued that the subject's current lease is *non-arms-length* and cannot be relied upon with any degree of confidence, even if the City were able to gather Assessment Request for Information (ARFI) lease data from the subject, which the City could not. Without a market lease in place from which to gather typical lease rate data, the Respondent submitted that the City places little confidence in the income approach to value for the subject assessment.

[20] Further, the Respondent referenced an Alberta Municipal Affairs *Principles of Assessment* manual which speaks to the appropriate use of the Income approach as follows:

Direct Capitalization, where capitalization rates are derived from comparable sales, is the preferred method for assessment purposes when:

- i) The investment opportunities of the properties being valued are similar to those provided by the recently purchased income producing properties; and
- ii) A consistent pattern of overall rates (or multipliers) emerges from the analysis of sales of income producing properties (Exhibit R1, p. 40).

[21] The Respondent argued that since the subject is owner occupied, and was registered on title as having transferred for the token amount of one dollar, it cannot reasonably be considered a typical property sold in the Calgary market as a typical transaction – thereby failing both standards i and ii above.

[22] The Respondent submitted a table of sales comparables (Exhibit R1, p.82), listing two properties in the nearby Dufferin non-residential zone (NRZ), which sold for time adjusted values of \$142 and \$142 psf respectively (compared to the subject assessed at \$141 psf). Upon questioning, the Respondent conceded that one of the Complainant's sales comparables (7007 54 Street S.E.) should also have been included in the City's study, but was not.

[23] The Respondent also submitted an equity table (Exhibit R1, p.57) listing four industrial, single tenant properties in the south east (three in Dufferin and one in SO2), all single building storage distribution centres located close to the subject, with assessed rates of: \$138, \$145, \$140, and \$149 psf respectively, compared to the subject's assessed \$141 psf rate.

[24] The Respondent questioned the comparability of the Complainant's lease and sales data, as well as the Complainant's use of 4% as a vacancy rate. The Respondent also alleged inconsistencies in the Complainant's evidence between the rental rates used to derive the cap rate and the rental rates used to apply to the subject property.

[25] The Respondent submitted several third party economic reports as well as a CARB decision in support of the City's reliance upon the Sales approach to valuing the subject property.

[26] In summary, the Respondent referred to a Court of Queen's Bench decision, wherein section 460(7) of the *MGA* is quoted, which states that a complainant who brings forth an assessment complaint bears the burden of proving the following:

- 1) indicate what information shown on an assessment notice or tax notice is incorrect;
- 2) explain in what respect that information is incorrect;
- 3) indicate what the correct information is; and
- 4) identify the requested assessed value, if the complaint relates to an assessment.

[27] The Respondent concluded by alleging that the Complainant has not satisfactorily met this burden, and as such the subject's current assessment should be confirmed.

Board's Findings and Reasons for Decision:

[28] Having carefully considered the evidence and arguments raised by both parties, the Board is persuaded that the Complainant's requested valuation is the best indicator of value for the subject property, given the evidence proffered at the hearing.

[29] The Board finds that the direct sales comparison approach to value used by the Respondent in the subject assessment *is not a reliable valuation methodology under the circumstances*, since there were insufficient sales of larger (over 100,000 sf) industrial properties used in comparison to provide a reliable indicator of value for the subject.

[30] The Board concludes that two sales in this case are insufficient to establish typical market value for this type of property. Further, the Board finds that the two sales relied upon by the Respondent were *not sufficiently comparable* in any event to be reliable market value indicators for the subject, based on the evidence submitted by the Complainant (noted in paragraph 16 herein), which the Board accepts.

[31] Additionally, the Board finds that the income approach to value is justified under the circumstances, given the lack of comparable sales for large industrial properties like the subject. The Board concurs with the findings reached in CARB 0756/2010-P, wherein was quoted:

The Board finds that the income approach to value is an acceptable valuation method for industrial properties and may provide a more reliable value estimate for large industrial properties such as the subject where there is a lack of sales of similar large properties within the relevant analysis period.

[32] Upon a review of the Complainant's lease comparables, the Board finds the Complainant's reliance on a typical lease rate of \$5.50 psf to be reasonable given the data submitted by the Complainant, which was not refuted by the Respondent, and which in the Board's estimation, included properties and leases similar to the subject.

[33] With respect to the Complainant's proposed typical vacancy rate of 4%, the Board notes that the Complainant submitted third party reports from three independent industry analysts supporting this rate, while the Respondent provided one report supporting a 5% vacancy rate. The Board is satisfied that the Complainant's proposed 4% vacancy rate is reasonable in this instance.

[34] The Board likewise accepts as reasonable the Complainant's cap rate studies (which went largely unchallenged by the Respondent), as well as the Complainant's direct sales comparison analysis, which reasonably corroborated the requested valuation derived from the income approach.


[35] Finally, notwithstanding the post facto nature of the subject sale in February 2013, the Board gave its mind to the fact that the subject's declared market value at that time was \$14,392,000, while its current assessment is \$18,660,000 (with the July 1, 2012 valuation date for the current assessment year occurring seven months prior to the sale).

[36] In consideration of all evidence advanced by both parties, the Board finds the Complainant's valuation to be the best indicator of market value for the subject property in this instance.

Board's Decision:

[37] For the reasons outlined herein, the Board reduces the current assessment of the subject property from \$18,660,000 down to **\$14,450,000**.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF October 2013.



V. Higham, Presiding Officer

APPENDIX "A"

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

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

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 Only – Roll Number 201179108

Municipal Government Board Use Only: Decision Identifier Codes				
Municipality/Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary CARB	Warehouse	Warehouse Single Tenant	Cost/Sales Approach Income Approach	Land & Improvement Comparables Equity Comparables Net Market Rent/Lease Rates Capitalization Rate