



## **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:**

***1328138 Alberta Ltd. (as represented by AEC Property Tax Solutions), COMPLAINANT***

**and**

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

**before:**

***K. D. Kelly, PRESIDING OFFICER***

***D. Pollard, BOARD MEMBER***

***T. Livermore, 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:

<b>ROLL NUMBER:</b>	<b>201718624</b>
<b>LOCATION ADDRESS:</b>	<b>11900 – 18 ST NE</b>
<b>FILE NUMBER:</b>	<b>72208</b>
<b>ASSESSMENT:</b>	<b>\$43,190,000</b>

This complaint was heard on 28<sup>th</sup> day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *J. Smiley - AEC Property Tax Solutions - Complainant*

Appeared on behalf of the Respondent:

- *I. McDermott – Assessor – City of Calgary*
- *K. Cody – Assessor – City of Calgary*

**Regarding Brevity**

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None

**Property Description:**

[3] The subject is a single-tenant (Wal-Mart) 2011 (year of construction) industrial trans-shipment warehouse containing 436,214 square feet (SF) of assessable space in the Stoney Industrial area in NE Calgary. The subject has a site area of 20.76 acres (Ac); 48.24% site coverage; 0% interior finish; and is assessed at \$99 per SF for a total assessment of \$43,190,000 (rounded).

**Issues:**

[4] Is the assessment of the subject inequitable when compared to similar property comparables in NE Calgary?

**Complainant's Requested Value:**

[5] The Complainant requests an assessment of \$38,380,000 based on \$88 per SF.

**Board's Decision:**

[6] The Board confirmed the assessment at \$43,190,000.

**Legislative Authority, Requirements, and Considerations:**

[7] Under the *Municipal Government Act*, the Board cannot alter an assessment which is fair and equitable.

[8] Section 467 (3) of the MGA states:

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the valuation and other standards set out in the regulations, the procedures set out in the regulations; and the assessments of similar property or businesses in the same municipality."

[9] The Board examines the assessment in light of the information used by the assessor and the additional information provided by the Complainant. The Complainant has the obligation to bring sufficient evidence to convince the Board that the assessment is not fair and equitable. The Board reviews the evidence on a balance of probabilities. If the original assessment fits within the range of reasonable assessments and the assessor has followed a fair process and applied the statutory standards and procedures, the Board will not alter the assessment. Within each case the Board may examine different legislative and related factors, depending on what the Complainant raises as concerns.

**Positions of the Parties****(a) Complainant's Position:**

[10] The Complainant clarified that his original investigation of the file led him to believe that the subject was incorrectly classified by the City as a multi-tenant building, when in fact it is a single-tenant building. He indicated that in subsequent discussions with the Respondent, the classification error was corrected by the City. He clarified therefore that the only issue before the Board in this hearing is a matter of "Equity", all as described in paragraph [4] above.

[11] The Complainant argued that there were no market sales of comparable industrial properties in the Stoney Industrial area within the last (or recent past) assessment cycle(s). Therefore he argued that he was obliged to compare the subject's 2013 assessed value to the 2013 assessments of other properties that he considered to be similar to the subject, all in the Stoney industrial area.

[12] The Complainant provided copies of "preliminary" assessment information sheets (2013 Industrial Assessment Explanation Supplements) which were prepared by the City for two properties which are also in the Stoney Industrial area. The properties were located at 1802 – 118 AV NE and 1832 – 115 AV NE. The Complainant argued that the individual characteristics of these two properties are very similar to the subject and hence they are good property comparables. He clarified that the Respondent has also used the latter property at 1832 – 115 AV NE as one of its six equity property comparables, therefore he is confident in its comparability to the subject.

[13] The Complainant noted that the preliminary assessment calculations contained on the Assessment Supplement sheets had been prepared by the City for its assessment "Consultation Period" and contained preliminary assessment data and values which would later prove to be incorrect. He clarified that certain information on these sheets had changed when the final Supplements were released, therefore he provided the Respondent and the Board with the corrected information – all as shown on page 9 of C-1.

[14] The Complainant clarified that the property comparable at 1802 – 118 AV NE was a multi-building (two buildings) property. It contained a single-tenant and a multi-tenant building. He noted that the single-tenant building had 439,237 SF of assessable space; was constructed in 2008; had 53.55% site coverage; and was assessed at a rate of \$78.42 per SF. He suggested that this building displayed many characteristics that were very similar to the subject but the subject was assessed at \$99 per SF. He argued that this was inequitable.

[15] The Complainant clarified that in the assessment process the Respondent applies a "multi-building discount" to multi-building properties, and therefore the property comparable at 1802 – 118 AV NE would need to be adjusted upward to equate its value to the subject. He argued that although the City will not reveal the actual co-efficient, it was common knowledge that a multi-building discount of about 10% is applied by the City to such properties. He argued that the Respondent has not disputed his conclusion regarding the 10% value, or provided an alternate value. Therefore he concluded that if approximately 10% is added to the \$78.42 per SF assessed value of the site – i.e. +/- \$8, the resultant value of approximately \$86 per SF is still significantly less than the \$99 per SF used to assess the subject.

[16] The Complainant detailed the specific site characteristics of his second property comparable at 1832 – 115 AV NE – also in the Stoney Industrial area, and compared them to the subject. He noted that this property was assessed at \$33,070,000 or \$92.82 per SF for its 356,288 SF of assessable warehouse space. He again contrasted this with the subject's \$99 per SF and argued that "economies of scale" would normally dictate that a larger building (the subject) would typically attract a lesser value, but the subject has not. He again argued that when compared to 1832 – 115 AV NE, the assessment of the subject is inequitable.

[17] The Complainant argued that in order to "test" and support his valuation theory as described above, he considered it necessary to calculate at least two alternate values for the subject based on the Income Approach to Value methodology. For inputs to his calculations he

used a "typical" \$6 per SF rent from the subject's Business Assessment as calculated by the Respondent; a suggested 5% vacancy rate gleaned from industry sources (Cushman & Wakefield)(Colliers International); and two suggested capitalization rates of 6.25% and 6.50% also gleaned from industry sources (Colliers International)(CBRE Richard Ellis). He provided excerpts of the referenced documents in his brief C-1.

[18] The Complainant calculated that by using the inputs noted in paragraph [17] above and a 6.5% Cap Rate, the alternate value for the subject should be \$87.69 per SF. When using a 6.25% Cap Rate, the alternate value should be \$91.21 per SF. This data, he concluded, supports his argument that the assessments of his two equity property comparables support an approximate range of value for the subject of between \$88 to \$93 per SF and not the \$99 per SF assessed. He also concluded that this data demonstrates that the subject is over-assessed.

[19] The Complainant referenced the Respondent's matrix on page 24 of R-1 containing six equity property comparables. He argued that all examples, except for one property at 1832 – 115 AV NE – also used by the Complainant, are not comparable to the subject because of various differentials in specific site characteristics (i.e. footprint; land area; site coverage; location, etc), and therefore the Board should not rely on them. He suggested in particular for example, that three of the Respondent's industrial properties are located in SE Calgary, an area which is not subject to the same market forces as properties in NE Calgary where the subject is located.

[20] The Complainant requested that the Board reduce the assessment of the subject to \$38,380,000 based on \$88 per SF.

**(b) Respondent's Position:**

[21] The Respondent provided a Brief R-1 that contained, among other things, a matrix containing six equity comparable properties from industrial areas in NE and SE Calgary. The Respondent confirmed the Complainant's position that there have been no recent market sales of large industrial buildings such as the subject (or others) in the Stoney Industrial area. Therefore the City has been required to compare the subject to similar sites which have sold recently in other NE and SE Calgary industrial areas.

[22] The Respondent argued that while the Complainant has argued that selected SE Calgary industrial areas are not similar to those in NE Calgary, he has provided no market evidence to confirm the same. Simply relying on critiquing the City's list of six equity property comparables is not sufficient proof to support the Complainant's position on this point, the Respondent argued.

[23] The Respondent also argued that the Complainant relies on only two equity comparable properties, one of which is a two-building (multi-building) site which should not be used as a comparison to single-building properties because the inputs and methodologies used to assess the two types of properties are markedly different. It was further argued that there is no evidence that the 10% multi-building discount as contemplated and advanced by the Complainant is accurate, and hence the Complainant's 10% upward adjustment of the assessed value of his multi-building comparable is unsupported. Therefore, it was argued, the Board should put little weight on the Complainant's methodology and conclusions regarding this point.

[24] The Respondent suggested therefore that the Complainant is left with only one property comparable (1832 – 115 AV NE) which the Respondent deems to be inferior to the subject and hence is not a reliable property comparable for it. It was argued therefore, that to reduce the assessment on the basis of one "inferior" property comparable would be inappropriate. On the other hand, the Respondent suggested his list of six property comparables provide a range of values which support the assessment.

[25] The Respondent argued that while the Complainant argues the latter's request for a reduced assessment is based on "Equity", in fact in review of the Complainant's several arguments and submissions, the request is based on an "Income Approach to Value" methodology. Moreover, it was argued that when applying the Income Approach, the Complainant's use of incorrect basic and essential inputs such as "rent", "vacancy", and "Cap Rate" to the calculation, has produced final valuations which are fundamentally flawed.

[26] The Respondent pointed out that in the Complainant's Income Approach calculation, while he has used a "typical" \$6 per SF Net Asset Rental Value (NARV) rate from the Business Assessment for the subject, he should have used a market rate of \$6.50 per SF. In addition, the Cap Rate of 6.5% and the Vacancy rate of 5% he used, are both outside the range of values provided by the "Third Party" reports relied upon by the Complainant (C-1 pages 12 to 22). For example, it was noted that the market Reports demonstrate vacancy rates of 4.33% to 4.77% but the Complainant used 5%.

[27] The Respondent also argued that Third Party data providers used by the Complainant, attach "disclaimers" to their published data with regard to its reliability for certain uses (e.g. pg. 63 of R-1). It was argued that certain of the published data may be based on "typical" market data, and others of "actual" market data. Therefore it is possible that the Complainant has mixed "typical" and "actual" data in his Income Approach to Value calculations of alternate value using Third Party data. The Respondent provided excerpts from "The Appraisal of Real Estate" manual of the Appraisal Institute of Canada and several Municipal Government Board and Calgary Assessment Review Board (CARB) decisions in support of arguments that this is not industry-accepted or Board-accepted methodology.

[28] On page 23 of R-1 the Respondent provided a chart "testing" the Complainant's value calculations using Third Party market report parameters. It was argued via the calculations presented in the page 23 chart, that when one uses the correct published Third Party inputs for Vacancy and Cap Rate, the resultant values support the assessment. Therefore, it was argued,

the Complainant's calculations of value using the Income Approach to Value methodology are demonstrated to be unreliable.

[29] The Respondent requested that the assessment be confirmed at \$43,190,000.

**Board's Reasons for Decision:**

[30] The Board finds that the vacancy and Cap Rate inputs used by the Complainant in his Income Approach to Value calculations are not correct and not those suggested by Third Party reporting agencies (Cushman & Wakefield; Colliers International; CBRE Richard Ellis), excerpt copies of which were presented to the Board by the Complainant.

[31] The Board finds that the Complainant used values for "Vacancy" and "Capitalization Rates" in his alternate calculations of value that were higher than and outside of the ranges recommended in the Third Party reports for the Calgary region. Consequently the Board considers the Complainant's calculations leading to a "range" of alternate values, to be unreliable, and therefore places little weight on the Complainant's value conclusions.

[32] The Board finds that when the correct Third Party values are inserted into the Complainant's Income Approach to Value calculations as demonstrated by the Respondent, the resulting values support the assessment.

[33] The Board finds that there was insufficient evidence from either party to demonstrate that the data from Third Party reports as provided by the Complainant, and used in the latter's calculations of alternate value, were based on either "typical" or "actual" values. Therefore the Board is unable to conclude that the Complainant mixed "actual" and "typical" values in his calculations as alleged by the Respondent.

[34] The Board finds that the Complainant provided no market or other evidence to demonstrate that the principle known as "economies of scale" is applicable to the subject when compared to other smaller industrial properties, as was alleged.

[35] The Board finds that notwithstanding the Respondent's reluctance to provide a firm value used to adjust the assessment of multi-building properties, the Complainant provided no market or other similar evidence to demonstrate that his 10% market adjustment factor for multi-building is correct. Therefore, given the lack of evidence, the Board can give little weight to the Complainant's calculations of alternate value using this adjustment factor.

[36] The Board finds that while on page 21 of R-1 the Respondent provided but did not speak to a matrix containing the market sales of five industrial properties from NE and SE Calgary, the Complainant provided no market sales whatsoever. While the Board accepts that there were no recent market sales of comparable properties in the Stoney Industrial area, the Board would have anticipated the Complainant to provide market sales from other nearby or similar industrial market areas in support of the Complainant's position.

[37] The Board finds that the Respondent's list of six assessment equity comparables are reasonably similar to and provide a range of assessed values which support the assessment of the subject. Alternately the Board considers that only one equity comparable from the Complainant, while somewhat similar, is not sufficient evidence to demonstrate that the assessment is either incorrect or inequitable.

[38] The Board finds that while the parties provided several Board decisions in support of their respective positions, and the Board does not ignore them, it is not bound by those decisions. The Board makes its decision based on the evidence and argument heard at this hearing.

[39] The Board finds that the assessment of the subject is correct, fair, and equitable.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF November 2013.

A handwritten signature in black ink, appearing to read 'K. D. Kelly', is written over a horizontal line.

K. D. Kelly

Presiding Officer



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

<b>NO.</b>	<b>ITEM</b>
1. C-1	Complainant Disclosure
2. R-1	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.*

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<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Industrial	Single tenant (IWS)	market value	Equity