



**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:

<b>ROLL NUMBER:</b>	<b>200830875</b>
<b>LOCATION ADDRESS:</b>	<b>55 Freeport Blvd NE</b>
<b>FILE NUMBER:</b>	<b>72447</b>
<b>ASSESSMENT:</b>	<b>\$49,520,000</b>

This complaint was heard on 6<sup>th</sup> and 7<sup>th</sup> 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.
- [4] Both parties asked that evidence, questions and answers, and argument related to the capitalization rate study presented by the Complainant (Exhibit C2) be carried forward from Complaint File No. 72190. The Board agreed.

**Property Description:**

- [5] The subject property is owner-occupied, located at 55 Freeport Blvd. NE, in the Freeport Industrial District located north of the Calgary International Airport. The site area is 41.86 acres with two warehouse buildings, one of 466,698 square feet (SF) built in 2005 and a second of 22,512 SF built in 2009. The buildings are contemporary warehouse structures. The site has considerable room for truck and trailer parking. The 2005 building has 477,386 SF of assessable area, and a 2% finish ratio, while the 2009 building has 24,837 SF of assessable area, with a 15% finish ratio, for a total assessable area of 502,223 SF. The total site coverage is 27%, resulting in 4.43 acres of extra land. The 2013 assessment is done using the Direct Sales Comparison Approach, with a rate of \$94.98/SF applied to the larger building and a rate of \$168.56/SF applied to the smaller building. These rates reflect the specific characteristics of each building with the "multi-building" adjustment applied to derive the 2013 assessment of \$49,520,000.

**Issues:**

- [6] 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 (Issue 2). A sub-issue (Issue 1) emerged related to how Direct Sales comparisons should be applied in a multi-building scenario. The City determines the market rates based on the market value of each building on one titled property, and then applies a multi-building adjustment to reflect market value of the property. The Complainant argued that a property with more than one building on the site would sell based on the total building area, and that comparable sales that reflect the total assessable SF on the property is a more appropriate approach to reflect the market.

**Complainant's Requested Value:** \$45,770,000

**Board's Decision:**

- [7] The Board confirms the 2013 Assessment of \$49,520,000.

**Legislative Authority:**

- [8] 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: Should multi-building properties be assessed as individual buildings or based on the total building area on the property?**

**Complainant's Position:**

- [9] The Complainant stated that multi-building properties are assessed by the City as separate buildings that can be sold as separate buildings. The market value assigned to each building in the assessment reflects the value of the building, as a subdivided property. This approach over-values multi-building properties, even after the City applies their multi-building adjustment. Furthermore, assuming that the property is in some way subdivided for assessment purposes ignores the actual condition of the property.

- [10] The Complainant argued that multi-building properties are purchased based on the total building area or the area that can be leased. As these are income-producing properties, purchasers consider the income that can be produced by the property (total leasable area). To reflect the reality of the market, multi-building properties should be assigned a market rate per square foot based on the total building area of all the buildings on the site, and this per square foot rate multiplied by the total building area.
- [11] The Complainant presented a number of tables (page 25 and 27, Exhibit C3) indicating the Assessment to Sale Ratio (ASR) for both single and multi-building properties used by the City in their disclosure. The Complainant argued that the wide range in the ASR's proved that the City's approach to valuing multi-building properties is flawed, and should be given little weight by the Board.

**Respondent's Position:**

- [12] The Respondent stated that the best market information available is for properties with individual buildings, therefore this is the basis of the assessment. Furthermore, assessing each building on a multi-building property allows the assessment to recognize the characteristics of each building. It is not obvious how one could accurately characterize the buildings on a multi-building site into one set of characteristics (representing a "theoretical subject" building). Such an approach introduces a number of weaknesses into the analysis.
- [13] As a result of previous Board Decisions, the City adopted a "multi-building adjustment" which reduces the assessment by a percentage to reflect the market value of multi-building properties. The Respondent opined that the multi-building adjustment reflects some reduction in utility for a property with more than one building, as compared to that same assessable area in just one building.

**Findings of the Board on this Issue**

- [14] 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 Board notes that the approach to valuing each building on a multi-building property and then applying a "multi-building adjustment" to the total assessment is a policy adopted by the City, not a directive of either the Act or its Regulations.
- [15] The Board notes that the issue of valuing multi-building properties has been addressed by several Boards in the past, including recently in CARB Decision 72357P-2013. It is generally accepted that an investor would consider the total floor area of the buildings on a property to determine the potential income. In most instances, multi-building properties cannot be subdivided, and only after the property was subdivided could the

buildings on the site be sold individually. A parcel with multiple buildings would trade in the market as one property (CARB Decision 0732-2012-P; CARB Decision 1439/2010-P). In situations where the buildings on a multi-building property are similar, the property can be considered similar to a single building and assessed based on the total floor area. Factors such as construction materials year of construction, building design, building type, building size, etc. should be taken into consideration in making such a determination. Otherwise, if there is a wide variance in the characteristics of the buildings on a multi-building site, then a value applied to each building is considered appropriate. Given the direction provided in previous CARB Decisions (i.e. CARB Decision 72357P-2013), the Board finds no further explanation of this matter is warranted.

- [16] The Board appreciates the issue related to developing or describing the characteristics of a number of buildings on a property as an "amalgam of characteristics" or a "theoretical subject" building. The characteristics of either the actual buildings or a "theoretical subject" forms the basis of the comparable sales used to indicate value, and the adjustments that should be made to those comparable sales to better reflect the value of the subject(s). Where the buildings on a site are similar, developing an amalgam of the characteristics (theoretical subject) introduces little or no weaknesses to the analysis.
- [17] In this situation, other than size, the two buildings on the subject site are similar in age, construction design, construction materials, function and use, therefore it is appropriate to select comparable sales based on the total floor area, not on the size of each individual building.

## **ISSUE 2: Is the subject property correctly assessed?**

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

- [18] The Complainant took the position that since the subject is an investment-grade property, the Income Approach is the best indication of value. The subject is a somewhat unique property, in that it is a multi-building property with one 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 comparable sales that would indicate value using a Direct Sales Approach.
- [19] Since the subject property is owner occupied, the Complainant argued that the best indication of rental rate is \$6.00/SF used to prepare the business assessment. To support this rate, the Complainant presented three industrial business tax lease comparables used by the City to support this \$6.00/SF rate (page 19, Exhibit C1) for leased areas between 302,135 to 439,237 SF. The Complainant applied the \$6.00/SF lease rate in the Income Approach calculation presented on page 18, Exhibit C1.

- [20] 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 these sales. The three 2011 sales indicate a capitalization rate of 6.5%, which was used in the Income Approach calculation (page 18, Exhibit C1).
- [21] A vacancy rate of 4% was used in the Income Approach calculation (page 18, Exhibit C1) and is apparently the rate used by the City as a typical vacancy rate for this type of property.
- [22] Since the subject property has 4.42 acres of excess land, the Complainant made an adjustment to the requested assessed value. The Complainant added 50% of the City's assessment land value rate for bare land industrial property in northeast Calgary (\$575,000/acre x 4.42 acres x 50%), or \$1,271,980 to the \$44,504,684 value of the property calculated using the Income Approach, to calculate the requested assessed value of \$45,776,665. The indicated rate per square foot is \$91.15/SF of assessable building area.
- [23] 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 rent applied to the subject (\$6.00/SF). This analysis indicates a value per square foot of about \$88.22/SF for the three 2011 sales. The Complainant argued that this supports the requested assessment.
- [24] 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.
- [25] The Complainant argued that the comparable sales and equity comparables relied on by the City and presented by the Respondent in Exhibit R1 are 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.
- [26] In rebuttal, the Complainant presented a summary (page 23, Exhibit C3) of eleven properties that had sold between December 2007 and November 2010. Using the same approach as discussed above, the Complainant calculated the current market value using the Income Approach adjusting for excess land and compared it to the time adjusted sale price for each property. The median "Altus Income Approach" value compared to the time adjusted sale price is 0.72.

- [27] In rebuttal, the Complainant also presented a summary table (page 25 and 27, Exhibit C3) showing the Assessment to Sales Ratio (ASR) of sales used by the Respondent in Exhibit R1, as well as other sales apparently taken from the City's 2013 industrial sales database. The Complainant argued that the wide range in ASR's demonstrates that the City's approach to assessment is flawed, and asked the Board not to put any weight on the Respondent's evidence.

**Respondent's Position:**

- [28] 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 the Board should place little weight on this evidence.
- [29] The Respondent presented a summary table of:
- four comparable sales for the 477,386 SF subject building (page 59, Exhibit R1) showing a range of sale prices between \$90.12 to \$142.31/SF to support the assessed rate of \$94.98/SF.
  - five comparable sales for the 24,837 SF building (page 61, Exhibit R1) showing a range of sale prices between \$128.81 to \$192.35/SF to support the assessed rate of \$168.56/SF.
  - four multiple building comparable sales showing a time adjusted sale price for the total building area ranging from \$101.17 to \$141.54/SF to support the assessed rate of \$98.62/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 various sets of comparable sales.

- [30] 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 regarding whether the model results in an acceptable ASR for that property type.
- [31] The Respondent presented a summary table of seven equity comparables (page 63, Exhibit R1) for the larger building. These equity comparables include similar sized buildings on multi-building sites. The median assessed value is \$86.09/SF to support the assessed rate of \$94.98/SF. The Respondent also presented a table of six similar sized buildings on multi-building properties for the smaller building (page 64, Exhibit R1) showing a median of \$154.78 to support the assessed value of \$168.56/SF.

**Findings of the Board on this Issue**

- [32] 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 the market value of the subject property as of the valuation date.
- [33] 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 net operating income (NOI) is a key factor in this calculation. The Board notes that the spreadsheets presented on page 15-16, Exhibit C2 showing how the capitalization rate is derived for the six comparable properties do not refer 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.
- [34] The Board heard limited evidence to support a market rental rate of \$6.00/SF. Essentially, the Complainant relied on this rental rate, used by the City to prepare its 2013 Business Tax Assessment, as the appropriate rental rate to use in the Income Calculation. No evidence was presented to indicate that this rental rate reflects the market (actual or typical) rental rate for either the larger subject building or the total building area.
- [35] No support was provided for the extra land adjustment made by the Complainant in the requested assessment calculation (page 18, Exhibit C1) nor any evidence to support using 50% of the City's bare land value. The Board notes that evidence presented on page 23, Exhibit C3 used to support the Complainant's Income Approach calculation shows a calculation using 60% of the bare land rate.



- [36] 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 rental rate of \$6.00/SF, used to prepare the Business Tax Assessment, is indeed the market rate for this size of warehouse space.
  - b. The Board heard no evidence to support the 4% vacancy rate, which was presented as typical vacancy for this property type.
  - c. 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.
  - d. The Board questions the extra land adjustment methodology applied to the calculation of the requested assessed value.
- [37] 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.
- [38] In considering the large single building sales comparables presented on page 59, Exhibit R1, the Board notes that a 302,135 SF property located at 4100 Westwinds Dr NE sold in August 2009 for a time adjusted sale price of \$90.12/SF. The sales comparables for the smaller building (page 60, Exhibit R1) are more similar to the subject and indicate a median of \$160.58/SF. Page 61, Exhibit R1 presents multi-building sale comparables, which are all much smaller than the subject. These sale prices do not include the "multi-building adjustment", so are not directly comparable to the rates used by the City, but tend to support the assessed rates applied to the two subject buildings.
- [39] Page 63 and 64, Exhibit R1 present the Respondent's equity comparables, which include the multi-building adjustment. These equity comparables do not suggest that the subject is inequitably assessed.
- [40] 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.
- [41] The Board finds that the sales and equity comparables presented tend to support the 2013 assessment.

**Board's Reasons for Its Decision**

- [42] The Board is not confident in the Income Approach analysis and its resulting requested assessed value, as presented by the Complainant. The Board finds some support for the 2013 assessed value in the sales and equity comparables presented by the Respondent. The Board confirms the 2013 assessment of \$49,520,000.

DATED AT THE CITY OF CALGARY THIS 9<sup>th</sup> DAY OF September, 2013.



**Ivan Weleschuk**  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*

**For MGB Administrative Use Only**

<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Industrial warehouse	Multi-building	Income vs Direct Sales Approach	Equity, Rental rates Capitalization rate Sales