



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:

1396239 Alberta 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:	009020603
LOCATION ADDRESS:	6875 9 Street NE
FILE NUMBER:	72992
ASSESSMENT:	\$11,540,000

This complaint was heard on the 7th 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 an owner-occupied warehouse industrial property (IWS) located at 6875 9 Street NE, in the Deerfoot Business Centre of northeast Calgary. The lot is 6.27 acres in size, configured as a rectangle. The subject building was constructed in 1997, with a footprint and assessable area of 95,405 square feet (SF), resulting in a 35% site coverage. The finish ratio is 16%. The 2013 assessment is \$11,540,000, calculated by applying a rate of \$121.96/SF to the total assessable area.

Issues:

- [5] What is the correct assessed value?

Complainant's Requested Value: \$10,490,000

Board's Decision:

- [6] The Board reduces the 2013 Assessment to \$10,490,000.

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: Is the subject property correctly assessed?**Complainant's Position:**

- [8] The Complainant presented three comparable sales (page 10, Exhibit C1), two of which involved industrial warehouse single-tenant properties, and argued that the sale located at 901 57 Avenue NE is the most similar of the three sales and is the most current. This sale indicates a time adjusted sale price of \$104.00/SF and an assessed rate of \$115.00/SF.
- [9] The Complainant presented support information on the 901 57 Avenue NE property and sale (page 11-13, Exhibit C1). The indicated sale date is October 26, 2012, which is post-facto the valuation date of July 1, 2012, but the Complainant argued that the October 26, 2012 date represents the date of the Transfer. The transaction was negotiated prior to this date, and is contemporary to the valuation date. To support this contention, the Complainant presented a copy of an email from Bentall Kennedy (Canada) LLP (page 12, Exhibit C1), who is apparently the new property manager, which indicates that their management agreement was in place before July 26, 2012. For these reasons, the Complainant argued that this sale should be considered by the Board and given considerable weight. The Complainant also referred the Board to CARB Decision 72509P-2013, in which this sale was considered a good comparable sale for the 2013 Assessment year.
- [10] The Complainant relied on the sale of the 901 57 Avenue NE property as the basis for the requested rental rate of \$110.00/SF. The rate was derived from using the time adjusted sale price of \$104.00/SF and adding \$6.00/SF to account for differences between the subject and this comparable sale property.
- [11] The Complainant argued that the 2013 assessment translates into a rate of \$121.00/SF, which is considerably more than the comparable data indicates, therefore the assessment is also inequitable.

Respondent's Position:

- [12] The Respondent presented a summary table of three comparable sales (page 20, Exhibit R1). The range of the time adjusted sale prices is between \$120.51 to \$137.76/SF, which the Respondent argued supports the assessed rate of \$121.96/SF.
- [13] The Respondent presented a summary table of six equity comparables (page 22, Exhibit R1) showing a range of assessed values between \$124.82 and \$131.37/SF. The slight differences in assessed values is a function of the specific characteristics of each property.
- [14] The Respondent argued that the sale of the 901 57 Avenue NE property occurred in October 2012, therefore is post facto the valuation date. The City is not able to use information that becomes available after the July 1, 2012 valuation date simply because of the work involved in preparing the following year's assessments. The Respondent argued that this sale should not be given any weight by the Board.

Findings of the Board on this Issue

- [15] 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.
- [16] All three sales comparables presented by the Respondent (page 20, Exhibit R1) are similar to the subject in a number of characteristics, but all three of these comparables are industrial warehouse multi-tenant (IWS) properties. In response to questions, the Respondent stated that an industrial warehouse multi-tenant property (IWM) would likely be valued slightly higher than an IWS property, all things being equal.
- [17] The Complainant presented two IWM properties as sales comparables (page 10, Exhibit C1). The sale of the property located at 4100 Westwinds Drive NE is a much larger property (301,930 SF of assessable area) than the subject and the sale occurred in August 2009, so is not considered comparable by the Board. The 901 57 Avenue NE sale is a very comparable property, and supports the requested assessed value of \$110.00/SF. The Board considers this sale to be the best indication of the market value of the subject property.

- [18] Regarding the weight given to the sale at 901 57 Avenue NE, the Board understands the constraints on a municipality related deadlines associated with the preparation of assessments, and specifically Section 302 of the Act which requires that a municipality prepare an assessment roll no later than February 28 of each taxation year. The assessment process is set out in the Act and Regulations, and the municipality is required to follow the procedures and the time restrictions therein. However, the Board is not under such restrictions, and is not limited to hearing information from events that occurred prior to the valuation date. The Board may consider any information that it deems relevant and was disclosed in accordance with Section 4 and 5 of Matters Relating to Assessment Complaints Regulation (MRAC). The Board notes that sales of industrial properties generally take weeks to close, therefore the date that the price was agreed to is typically sometime prior to the transfer date shown on a Certificate of Title. While it was not clear when the parties in this transaction actually agreed to the price, the Board considers this to have occurred at or about the valuation date. The Board finds that this sale is contemporary to the valuation date and will be considered as part of the evidence.

Board's Reasons for Its Decision

- [19] The Board considers the sales comparable located at 901 57 Avenue NE as the most similar to the subject IWS property, indicating a market value of \$110.00/SF. The Board reduces the 2013 assessment to \$10,490,000 (\$110.00/SF).

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. 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.*

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Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Industrial warehouse	Stand-alone	Direct Sales Approach	Equity, Sales