



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:

Harmin Holdings Ltd.
(represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Ms. V. Higham, PRESIDING OFFICER
Mr. P. Loh, BOARD MEMBER
Mr. J. Mathias, 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 2014 Assessment Roll as follows:

ROLL NUMBER:	098011802
LOCATION ADDRESS:	5940 30 Street SE Calgary, Alberta
FILE NUMBER:	73963
ASSESSMENT:	\$3,770,000 (net of exempt assessment)

This complaint was heard on the 2nd day of July, 2014 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. J. Weber** **Agent, Altus Group**

Appeared on behalf of the Respondent:

- **Mr. T. Luchak** **Assessor, City of Calgary**

Procedural or Jurisdictional Matters:

- [1] Neither party objected to the composition of the Board as introduced at the hearing.
- [2] The Board notes an executed Agent Authorization Form present in the file.
- [3] All disclosure materials were received in a timely fashion.
- [4] No preliminary issues were raised by either party.
- [5] Upon request, the Board agreed to carry forward the Complainant's rebuttal evidence and arguments from "lead file" #73960 heard by this panel during the same week.

Property Description:

The subject is assessed as a multi-tenant industrial warehouse property (IWM), located at 5940 30 Street SE, on 2.02 acres of land. With 33% site coverage, the parcel is improved by one building constructed in 1975, comprising 32,040 square feet (sf) of space (3,120 sf of which is exempt and not under complaint). The taxable area of the subject is assessed at \$131 per square foot (psf) based on a direct sales approach to value.

Issues:

[6] The Complainant identified one matter on the Complaint Form as under complaint, being the assessment amount. During the hearing, the Complainant requested a different assessment amount (\$2,950,000) than originally noted on the Complaint Form (\$3,250,000), and raised the following issue for the Board's consideration:

- 1) What is the correct psf value to apply to the subject property: the assessed \$131 or the requested \$103?

Complainant's Requested Value: \$2,950,000

Board's Decision: The Board confirms the subject assessment of **\$3,770,000**.

Legislative Authority, Requirements and Considerations:

[7] A Composite Assessment Review Board (CARB) derives its authority from the *Act*, 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 *Act* 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

Issue: What is the correct psf value to apply to the subject property: the assessed \$131 or the requested \$103?

Complainant's Position:

[8] The Complainant submitted a table of two comparable sales, acknowledging that sale #2 (6565 40 Street SE) is a non-arms-length sale included in the table for trending purposes only.

[9] The Complainant submitted CARB decisions 72276P-2013, 72366P-2013, 1426/2011-P, 0751/2012-P, and 72102/2013-P to support his argument that the Board is free to derive a market value assessment for the subject based on a single best comparable (comp).

[10] The Complainant requested that the Board reduce the subject's assessed psf rate by 21% (from \$131 to \$103), since the Complainant's single best comp (comp #1, 4420 75 Avenue SE) is "over-assessed" by 21% with an assessment-to-sales-ratio (ASR) of 1.2143.

[11] In rebuttal, the Complainant defended his comp #1, noting that the City validated the sale in its regression analysis model, and that the capital expenditure in question (challenged by the Respondent) was made to raise rental rates in the property, and did not adversely affect the sale price.

Respondent's Position:

[12] The Respondent submitted the City's table analysing five sales (none common to the Complainant), reflecting median/mean rates of \$148 and \$142 psf respectively.

[13] The Respondent asked the Board to exclude the Complainant's comp #2 (6565 40 Street SE), being a non-arms-length transaction.

[14] The Respondent challenged the reliability of the Complainant's remaining comp (4420 75 Avenue SE), arguing that the sale of this property was not typical, owing to the high interest rate attached to the sale, and the role financing played in concluding the transaction.

[15] The Respondent submitted an email correspondence he received from the broker of the property in question, Mr. Daniel Goldstrom, who confirmed that the parcel was in a state of "disrepair" and required a capital expenditure of approximately \$800,000 in order to "bring the building and grounds to market standard for a lease up [value] at \$8-9 sf stepped over a 3-5 year period."

[16] The Respondent noted that including the \$800,000 into the TASP of the property produces a rate of \$120 psf for the transaction, representing a truer reflection of market value for this property.

[17] The Respondent further argued that the City's study better reflects typical market value for the subject, since it includes a larger sample size of comparable sales than the Complainant's.

Board's Reasons for Decision:

[18] The Board finds that the correct value to apply to the subject is the assessed \$131 psf.

[19] In analysing the respective sales of both parties, the Board acknowledges that all property characteristics influence the City's regression analysis in some manner, but some influence value more than others.

[20] Since no evidence was submitted by either party relative to how the Board might quantify the various factor adjustments needed to make the sales more reliably comparable to the subject, the Board focused on three key factors: *building size*, *year of construction*, and *site coverage* as most relevant to its analysis.

[21] The Board excluded the Complainant's comp #2 (6565 40 Street SE, being non-arms-length), as well as the Respondent's comp #2 (3160 118 Avenue SE, being significantly newer).

[22] The Board finds that the Complainant's remaining comp (4420 75 Avenue SE), while similar to the subject in general characteristics, is not *alone* sufficiently persuasive to justify the requested variance, owing to the shadow of doubt cast upon the transaction relative to the \$800,000 capital expenditure.

[23] After carefully reviewing Mr. Goldstrom's email response and the Respondent's sales assessment request for information (ARFI), the Board finds the issue of when this expenditure was actually made (before or after the sale) is subject to interpretation, being inconclusive of either the Respondent's or the Complainant's arguments.

[24] Thus, the Board is not inclined to rely on this sale as the sole value comparison for the subject. In any event, the Board is unpersuaded by the Complainant's argument to reduce the assessment by 21% based on the ASR of one sale (even if it were highly reliable), being more focussed on comparing the subject against similar, reliable *market* values, rather than ASR rates.

[25] The Respondent's two remaining IWM sales produce a range within which the subject falls (\$116 to \$148), reasonably supporting the subject assessment.

Board's Decision:

[26] For reasons outlined herein, the Board confirms the subject assessment of **\$3,770,000.**

DATED AT THE CITY OF CALGARY THIS 30th DAY OF July 2014.



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 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 098011802

Municipal Government Board Use Only: Decision Identifier Codes				
Municipality/Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary CARB	Warehouse	Warehouse-Multi	Sales Approach Equity	Land & Improvement Comparables