

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:

***Lobello Group of Companies Ltd.
(represented by Altus Group), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Ms. V. Higham, PRESIDING OFFICER
Mr. R. Cochrane, BOARD MEMBER
Mr. P. Cross, 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:	033041708
LOCATION ADDRESS:	3650 12 Street NE Calgary, Alberta
FILE NUMBER:	74000
ASSESSMENT:	\$5,010,000

This complaint was heard on the 23rd day of July, 2014 at the office of the Calgary Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta, 4th Floor, Boardroom 4.

Appeared on behalf of the Complainant:

- **Mr. M. Robinson** **Agent, Altus Group**

Appeared on behalf of the Respondent:

- **Mr. F. Taciune** **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.

Property Description:

- [5] The subject is assessed as a single tenant industrial warehouse property (IWS), located at 3650 12 Street NE on 2.60 acres of land, with 45% site coverage. The parcel is improved by one building constructed in 1974, comprising 51,200 square feet (sf) of space, and assessed at \$98 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 (\$4,540,000) than originally noted on the Complaint Form (\$4,544,000), 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 \$98 or the requested \$89?

Complainant's Requested Value: \$4,540,000

Board's Decision: The Board varies the subject assessment from \$5,010,000 down to a truncated value of **\$4,540,000**.

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.

Sections 2 and 4 of the *Matters Relating to Assessment and Taxation Regulations* (the *MRAT*) state:

- (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 \$98 or the requested \$89?

Complainant's Position:

[8] The Complainant submitted a table of two comparable sales, one of which was the subject property which sold on July 6, 2011, for a time adjusted sale price (TASP) of \$4,543,952 or \$89 psf.

[9] The Complainant referred to a Queen's Bench decision by Madam Justice Acton, wherein she states that the recent sale of a subject property is generally the best indicator of market value. The Complainant asked the Board to apply the TASP rate of that sale (\$89 psf) to the subject assessment.

Respondent's Position:

[10] The Respondent submitted the City's table analysing four sales (two of which are common to the Complainant's study, of which one is the subject), reflecting a common median/mean rate of \$100 psf.

[11] The Respondent referred to section 2 of the *MRAT* which states that an assessment of property must be based on market value, and prepared using mass appraisal principles which reflect typical market conditions for similar properties.

[12] The Respondent argued that to assess the subject solely on the value of its 2011 sale is not in keeping with the principles of fairness mandated by the *Act*. Rather, the subject was included as one of several comparable sales to derive a typical rate applied to similar properties, as contemplated by the *MRAT*.

BOARD'S REASONS FOR DECISION:

[13] The Board finds that the appropriate value to apply to the subject is \$89 psf., based on the recent sale of the subject.

[14] The Board finds that the mass appraisal principles referenced in the *MRAT* speak to the preparation of an assessment, whereby typical market factors derived from a mass appraisal analysis of similar sales are applied to the assessed property – *in the absence of a recent market sale*.

[15] Where there has been a recent sale of the assessed property, the law is settled on how this Board may be guided to regard the transaction. In *697604 Alberta Ltd. v. City of Calgary, 2005 ABQB 512, p.5*, Madam Justice Acton quotes from a related Ontario court decision:

It seems to me worth remembering that where the Assessment Act requires the determination of what a property might be expected to realize if sold on the open market by a willing seller to a willing buyer, the price paid in a recent free sale of the subject property itself, where, as in this case, there are neither changes in the market nor to the property in the interval, must be very powerful evidence indeed as to what the market value of the property is.

It is for that reason that the recent sale of a subject property is generally accepted as the best means of establishing the market value of that property.

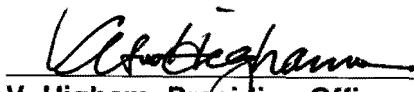
[16] The Board finds that the subject sale (July 6, 2011) is recent enough to rely upon given the time adjustment to the sale price. No evidence was submitted of material changes either to the subject or the market in the interim.

[17] Therefore, the Board concludes that the sale of the subject at a TASP of \$89 psf is the best indicator of market value.

Board's Decision:

[18] For reasons outlined herein, the Board varies the subject assessment from \$5,010,000 down to a truncated value of **\$4,540,000**.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF AUGUST 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 033041708

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