



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:

YORK REALTY INC. (as represented by Altus Group), COMPLAINANT
and

The City Of Calgary, RESPONDENT

before:

M. CHILIBECK, PRESIDING OFFICER
G. MILNE, BOARD MEMBER
R. KODAK, 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 2014 Assessment Roll as follows:

ROLL NUMBER: 031001894

LOCATION ADDRESS: 3740 – 27 ST NE

FILE NUMBER: 74070

ASSESSMENT: \$5,550,000.

This complaint was heard on 9th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *M. Robinson, Agent of Altus Group*

Appeared on behalf of the Respondent:

- *G. Foty, Property Assessor of the City of Calgary*
- *M. Hartmann, Property Assessor of the City of Calgary*

Observer:

- *H. Argento, Property Assessor of the City of Calgary*

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

[1] Neither party raised any objections to any member of the Board hearing the subject complaint

[2] Neither party raised any procedural or jurisdictional matters.

Preliminary Matter:

[3] The Complainant objected to the Respondent's surrebuttal and requested that the Board not hear any information contained therein because it is not allowed according to Matters Relating to Assessment Complaints Regulation (MRAC).

[4] The Respondent argued that MRAC, s.8(2)(c), allows a respondent to respond to or rebut a complainant's evidence disclosed in rebuttal to the respondent's evidence at the hearing. In this instance the Respondent emailed the surrebuttal on the Friday before the hearing date as a courtesy to the Complainant. The surrebuttal is not new evidence, it is a recalculation based on information provided by the Complainant in their rebuttal.

[5] The Board decided to allow the surrebuttal because the Respondent is allowed to rebut the Complainant's rebuttal according to MRAC, s.8(2)(c). The Complainant's rebuttal must be in "sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing." In this case the Respondent chose to apprise the Complainant of his response by email prior to hearing date.

[6] The end result was that the Respondent's surrebuttal was really a replacement of one page of the Respondent's evidence (R1/P23) which contained corrections as identified by the Complainant in their rebuttal evidence.

Property Description:

[7] The subject property is a developed parcel of industrial land with 4.31 acres, designated I-G and improved with one multi-bay warehouse building constructed in 1979. The assessed building area is 65,958 sq. ft. and has 34% finish. The site coverage is 35.14%.

[8] The subject is located at the southeast corner of 27 ST and 38 AV in the Horizon Industrial Park located in the northeast quadrant of the City of Calgary.

Issues:

[9] The Complainant identified the matter of the assessment amount under complaint on the complaint form and attached a schedule listing several reasons (grounds) for the complaint. At the outset of the hearing the Complainant identified the following issue:

- 1) The subject property is in excess of its market value for assessment purposes.
 - i. The aggregate assessment per square foot applied to the subject property does not reflect market value when using the direct sales comparison approach.

Complainant's Requested Value: \$4,200,000.

Board's Decision:

[10] Change the assessment to \$5,020,000.

Legislative Authority, Requirements and Considerations:

[11] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of the Act:

Section 460.1(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).

[12] For purposes of the hearing, the CARB will consider section 293(1) of the Act:

In preparing the 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*

[13] The Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in section 293(1)(b) of the Act. The CARB consideration will be guided by section 2 of MRAT:

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

(c) must reflect typical market conditions for properties similar to that property

Assessment Background:

[14] The subject property is assessed using the direct sales comparison method at an aggregate rate of \$115.83 per sq. ft. of assessable building area.

[15] The subject property has 18,120 sq. ft. of building area that is exempt from taxation which is assessed at \$115.83 per sq ft. The taxable portion of 47,838 sq. ft. is assessed at \$5,550,000, which is under complaint in this case.

Position of the Parties

Complainant's Position:

[16] The Complainant provided four sale comparables of multi-tenant properties in NE Calgary (C1P16) which have an aggregate median time adjusted sale price of \$95 per sq. ft of building area in support of their claim the subject is assessed in excess of its market value.

[17] The comparables have a time adjusted sale price (TASP) range from \$84 to \$124 per sq. ft., assessable building area from 36,167 to 96,804 sq. ft., AYOC (actual year of construction) from 1973 to 1981, site coverage (SC) from 36 to 49% and finish from 11 to 34%.

[18] The Complainant placed most weight on one sale, 3905-29 ST, with a TSAP of \$88, assessable building area of 96,804 sq. ft., AYOC of 1981, SC of 44% and finish of 27%.

[19] The Complainant requested that the subject property be assessed at \$88 per sq ft of building area.

[20] In rebuttal, the Complainant re-capped the nine sale comparables of the Respondent (C2P4), four of which are in common with the Complainant, and argued that the four single tenant properties and the two properties located in SE Calgary should not be used as comparables to the subject. It was asserted that the Respondent values single-tenant property at a higher rate than multi-tenant property and that property located in SE Calgary is generally valued at a lower value than property located in NE Calgary.

[21] Accordingly, the Complainant calculated the median TASP at \$109 and the average TASP at \$105 per sq. ft. of building area.

[22] In summary, the Complainant made reference to several CARB decisions in support of their position that multi-building properties sell for the same price as single-building properties, all other characteristics being the same; for example, AYOC, type of construction, building area, etc. This supports their position that their one multi-building sale is a reasonable comparable.

Respondent's Position:

[23] The Respondent provided five sale comparables which together with the Complainant's four sale comparables have a median TASP of \$113.35 and average TASP of \$108.51 per sq. ft. of building area.

[24] The Respondent's comparables included four single-tenant properties and two properties from southeast Calgary.

[25] It was argued by the Respondent that multi-building comparable used by the Complainant should not be used as a comparable because multi-building properties sell for more than single-building properties and are valued accordingly. The Respondent referenced CARB decision 7163P-2013 in support of his position.

Board's Reasons for Decision:

[26] The Board reviewed the sale comparables from both parties and gave serious consideration to the Complainant's best comparable at 2835-23 ST NE and one of the Respondent's comparables at 3202-12 AV NE (R1/P23). The TASP is \$102.31 and \$107.00 per sq. ft. respectively.

[27] The Board finds these two comparables are the most similar to the subject when the building type, building area, AYOC, SC and finish are considered.

[28] In light of argument to the contrary, the Board agrees that multi-building properties can be considered good comparables when the property characteristics are similar to the subject except for the fact the subject may be a single-building property and the comparable may be a multi-building property. The Board is not bound by previous decisions, however finds the CARB decisions referenced by the Complainant persuasive in this regard.

[29] The Board accepts in this decision, after questioning both parties, that multi-tenant properties can be typically valued at a higher rate than single-tenant properties.

[30] The Board's decision is to change the assessment to \$5,020,000 based on \$105 per sq ft of building area.

DATED AT THE CITY OF CALGARY THIS 18th DAY OF JULY 2014.



M. CHILIBECK

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal
3. R2	Respondent Surrebuttal

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.*

CARB Identifier Codes

Decision No. 74070P-2014			Roll No. 031001894	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Industrial	Multi Tenant	Sales Approach	Market Rate

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