

Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of the complaint against the 2014 property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Donel Holdings Inc., COMPLAINANT
(as represented by Altus Group)***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
J Lam, BOARD MEMBER
J. Massey, 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:	033035809
LOCATION ADDRESS:	1313 44 Av NE
FILE NUMBER:	74118
ASSESSMENT:	\$3,100,000

This complaint was heard on 17th 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 – Altus Group*

Appeared on behalf of the Respondent:

- *F. Taciune, Assessor – City of Calgary*

Procedural or Jurisdictional Matters:

[1] The Board as constituted to hear and decide on this matter was acceptable to both parties.

Preliminary Matters:

[2] No preliminary matters were raised either at the commencement or during the hearing.

Property Description:

[3] The subject property is located at 1313 44 Av NE, in the McCall Industrial District of northeast Calgary. The site is 1.46 acres. A multi-tenant, warehouse of 23,100 square feet (SF) demised into six bays is located on the property (average bay size is 3,850 SF). This results in site coverage of 36.33%. The building was constructed in 1973. Each bay has a man-door at the front, and a man-door and loading bay overhead door at the rear. The building is cinder-block construction, with brick on the front exterior face. There is no mezzanine area. The Assessment Explanation Summary indicates 6% finish.

[4] 2014 property tax assessment is done using a Direct Sales Approach. This approach involves using all valid industrial sales inputted into the assessment model, which adjusts for a number of characteristics. The resulting assessment is \$3,100,000 (\$134/SF).

Issues:

[5] The Complainant's position is that the 2014 Property Assessment value is greater than the market value of the subject, based on the Direct Sales Approach. The only issue before this Board is:

- Is the assessed value correct, and if not, what is the correct value for assessment purposes?

Complainant's Requested Value:

\$2,650,000

Board's Decision:

[6] The 2014 Property Assessment is reduced to \$2,930,000. The Board considered the Comparable Sales presented by both parties and concluded that the market value of the subject property is \$127/SF.

Legislative Authority, Requirements and Considerations:

[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.

[8] The Board notes that the words "fair" and "equitable" are not defined in the Act or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard applied to all properties in that property category.

Issue 1: Is the assessed value correct, and if not, what is the correct value for assessment purposes?**Complainant's Position:**

[9] The Complainant's position is that the \$134/SF assessed value is higher than the market value of the subject property. The Complainant stated that the market value of the subject property, based on Comparable Sales of similar properties is \$115/SF, which results in the requested assessed value of \$2,650,000.

[10] In Exhibit C1, the Complainant presents two Comparable Sales (summarized on page 14) with supporting documentation. The Sales are all taken from the City's Industrial Sales database provided to the Complainant, and the time adjusted sale prices are taken from this same City database. Therefore, the three sales presented are considered valid sales because they are used by the City in preparing the assessment. Furthermore, there is no dispute as to the time adjustment, because the Complainant accepts the time adjustments used by the City.

[11] The two Comparable Sales presented have a time adjusted sale price of \$115.08/SF, and \$101.62/SF. The Complainant stated that the comparable sale located at 1314 44 Av NE is the most comparable to the subject, and used that time adjusted sale price of \$115/SF as the basis for its requested assessment, as this best reflects the market value of the subject.

[12] The Complainant stated that the three most important factors in the model (the three factors that have the greatest influence on the resulting value) are actual year of construction (AYOC), assessable building area and % site coverage. The basis of this statement is discussions with assessors and evidence presented by assessors in previous hearings over many years. The Complainant argued that the three Comparable Sales presented are all very similar to the subject on these three factors and therefore are a good indication of market value.

[13] In rebuttal, the Complainant argued that bay size is not a factor considered in the assessment model, therefore is not a factor that should be considered in determining the comparability of properties. Assessable building area is a factor in the model and one of the key factors influencing value, based on discussions with various assessors.

[14] The Complainant summarized its position on the Respondent's comparable sales on page 4 of Exhibit C2. The comparable sales are presented by the Respondent on page 41, Exhibit R1). The Complainant argued that:

- the Sale property located at 2801 18 St NE has 64% finish compared to the subject's 6% finish; and has a site coverage of 24% compared to the subject's 36.33%, therefore is superior to the subject.
- the Sale property located at 3516 26 St NE has site coverage of 26% compared to the subject's 36.33%, so is superior to the subject.
- the Sale property located at 216 40 Av NE has 67% site coverage compared to the subject's 36.33%, so is not comparable.

Respondent's Position:

[15] The Respondent stated that the City uses all valid sales of industrial property in the municipality in its assessment model. The model analyses the sales and develops coefficients for the nine factors in the model, including AYOC, assessable building area and site coverage. But, all nine factors influence the model results. It is incorrect to say that one factor has a greater influence than another, because they are all important. The sales used exhibit a range of value. The model provides a value within an acceptable range of the market value. The City is required to use mass appraisal. As such, the resulting value is not an appraised value for each specific property.

[16] The Respondent took the position that bay size is an important factor that influences value. It may not be a factor used in the model, but it appears to be a factor in the market. The average bay size of the two Complainant's Comparable Sales are in the same range as the Comparable Sales presented by the Respondent, so the Respondent used all these sales to derive a mean time adjusted sale price (TASP) of \$133.62/SF and median TASP of \$134.85 (page 41, Exhibit R1).

[17] Regarding the Complainant's Comparable Sales, the Respondent argued that relying on one sale is not appropriate, as one sale does not reflect a market value.

Findings of the Board:

[18] The Complainant presented considerable argument related to the importance of % site coverage and how much influence this factor has in the calculation of a property's value. The "typical" site coverage used in the assessment model is 30%. Properties with a site coverage of less than 30% are considered superior, and apparently the value of these properties is higher than a similar property with a site coverage of more than 30%. The value of a property is apparently very sensitive to % site coverage. That said, the Complainant did not provide any quantification of this relationship. The Board was presented with the theory and asked to consider the site coverage of the various comparable sales with that of the subject. No evidence was presented related to the quantum of any possible adjustment. While the Board can accept that % site coverage is an important and influential factor in the valuation of a property and understand the direction of the adjustment based on the % site coverage of a given property, without some quantification of this influence, it is not possible to use this information to derive a specific value for the subject property. The Board considered this factor as one of the factors related to comparability, but is not able to apply the data directly to determine if the subject is incorrectly assessed.

[19] The Board concurs with the Complainant that some of the comparable sales presented by the Respondent have factors that are quite different from the subject property. In particular, the sale located at 216 40 Av NE is a much smaller parcel with a much smaller building footprint and assessable building area. The Board therefore puts little weight on that sale. Furthermore, the property located at 2801 18 St NE has a TASP of \$182/SF which is much higher than the other five sales, which range from \$102/SF to \$140/SF. No reason was given for this higher value, and it may be a valid sale, but its price seems out of line with the other comparable sales presented. The Board also puts little weight on this sale.

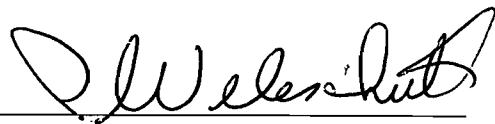
[20] The Board finds that the two most comparable sales are located at 3516 26 St NE (\$140/SF) and 1314 44 Av NE (\$115/SF). The Board finds that the best indicator of market value is the mean of these two comparable sales, at a value of \$127/SF. The assessed value is therefore \$2,933,700 (rounded to \$2,930,000).

[21] The Board notes that equity was not raised as an issue by the Complainant. The Respondent presented a table to demonstrate that the subject property is equitably assessed, but as this was not an issue, the Board put no weight on this information.

Board's Reasons for Decision:

[22] The Board selected two of the five comparable sales as being the most comparable to the subject and based on the time adjusted sale price of those two comparable sales, the indicated market value of the subject property is \$127/SF. Based on this per square foot rate, the 2014 Assessed value is reduced to \$2,930,000.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF July 2014.



I. Weleschuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
4. 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.*

For MGB Administrative Use Only

Subject	Type	Sub-Type	Issue	Sub-Issue
CARB	Commercial	Industrial	Sales Comparison	% site coverage Assessable building area Bay size