



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:

Westpen Properties Ltd. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, D. Morice
Board Member, P. McKenna***

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: 095000204

LOCATION ADDRESS: 4800 - 52 Street SE

FILE NUMBER: 74329

ASSESSMENT: \$37,230,000

This complaint was heard on the 29th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *G. Langelaar, Agent, MNP LLP*
- *Y. Lau, Agent, MNP LLP*

Appeared on behalf of the Respondent:

- *J. Tran, Assessor, City of Calgary*
- *T Nguyen, Assessor, City of Calgary*

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

- [1] There were no procedural or jurisdictional matters raised by either party.

Property Description:

(2) The subject is a two building warehouse property located in Residual Ward 10 of SE Calgary. The two buildings are 157,692 and 171,274 square feet (s.f.), for a total assessable area of 328,966 s.f. The buildings were built in 1999 and 2000 respectively. Both are multi tenant. The larger building has a finish ratio of 35.0 per cent. The smaller building has 14.0 per cent interior finish. The land area is 18.04 acres. The land is designated I-G. Site coverage is 38.78 per cent.

Issues:

(3) The property is currently being assessed by the sales comparison approach. The City's methodology is to value each of the buildings separately as though each building was a separate property, add the totals together, and then apply a "multi building" adjustment. According to the Respondent, the "multi building" adjustment is a coefficient in the mass appraisal model, and cannot be made public. It is the Complainant's position that properties such as the subject are most often bought and sold for investment purposes and are therefore best valued by income capitalization.

(4) The current assessment reflects an overall rate of \$113.18 per s.f. The Complainant contends that that rate is not equitable with similar properties, and that the rate does not properly reflect market values.

Complainant's Requested Value: \$35,130,000 or \$36,980,000.

Board's Decision:

- (5) The assessment is confirmed.

Legislative Authority, Requirements and Considerations:

- (6) This Board derives its authority from section 460.1(2) of the Act.
- (7) Section 2 of Alberta Regulation 220/2004, being the Matters Relating to Assessment and Taxation Regulation (MRAT), states as follows;
"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"
- (8) Section 467(3) of the Act states;
"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration
(c) the assessments of similar property or businesses in the same municipality."
- (9) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.
- (10) The Board notes that the assessment has increased from \$34,740,000 in 2013, to \$37,230,000 in 2014.

Position/Evidence of the Parties

- (11) In support of the income calculations, the Complainant submitted a capitalization rate study that contained ten sales comparables that were analysed to derive a capitalization rate. The Complainant's conclusion from the analysis is that a rate of 7.00 per cent is appropriate. The Complainant also relied on third party reports to support the capitalization rate conclusion.
- (12) The Complainant submitted ten multi building comparables that were used to derive typical market rents. According to the Complainant, the rents used were typical rents applicable to the time of sale for each comparable. That assertion was not disputed by the Respondent.
- (13) For the remaining capitalization inputs, the Complainant relied on third party reports, and a single sale on Aero Drive that was used in support of the Complainant's adopted vacancy rate of 5.0 per cent. The Respondent objected to the use of the comparable, on the grounds that airport related property is not the same as typical warehouse space, and is treated differently in the marketplace. The Complainant did not disagree.
- (14) The Complainant incorporated operating costs of \$3.00 per s.f. into the income capitalization calculations. These costs are unsupported in the evidence presented. The non-recoverable allowances were based on discussions with property owners, property managers, and "industry experts".
- (15) The Complainant did not submit any comparable sales data, or assessment equity comparables.
- (16) In response to the capitalization rate study, the Respondent pointed out that three of the sales used by the Complainant were invalid for various reasons. The Complainant did not

dispute the assertions made in reference to the three sales. If these are excluded from the analysis, the capitalization rate reduces to 6.65 per cent. It is from this change in capitalization rate that the Complainant's second request of \$36,980,000 is derived.

(17) The Respondent submitted one industrial sale in support of the assessment. The Time Adjusted Selling Prices (TASP) reflected was \$126.95 per s.f.

(18) The Respondent also submitted four equity comparables. These reflected assessments from \$92.58 to \$144.61 per s.f. These comparables are single building properties.

Findings and Reasons for Decision:

(19) In the view of the Board, the City's method of assessing multi building properties is faulty, and does not reflect the typical behaviour of buyers and sellers in the marketplace, which is one of the underlying principles of the sales comparison approach to value. Most, if not all, investors view property on the basis of the total revenue potentially generated by a property as a whole, set against the total required capital investment. In other words, in the Board's view, comparing the subject's aggregate rentable floor area to comparable properties having the same or similar aggregate floor area provides a more realistic reflection of actual market behaviour.

(20) The Respondent's position that the "multi building" coefficient cannot be made public is well taken by the Board. However, this Board has no way of determining whether the adjustment was applied correctly, or whether the adjustment even remotely reflects actual behaviour in the market place.

(21) However, the Board also finds that there are too many unsupported inputs in the Complainant's income approach calculations. The lack of adequate support for the vacancy rate, operating costs, and the change in the capitalization rate casts sufficient doubt on the capitalization results to render the results as unreliable.

(22) The Complainant presented no sales comparables into evidence. Neither is the Board swayed by the sales comparable or the equity comparables submitted by the Respondent.

(23) Having said that, the onus of proving that an assessment is incorrect lies with the individual alleging it. The onus rests with the Complainant to provide convincing evidence to justify a change in the assessment. In the assessment complaint process, every opportunity is provided to both parties to present evidence and arguments in support of their positions. However, the ultimate burden of proof rests on the Complainant to convince the Board that their arguments, facts and evidence are more credible than that of the Respondent. In this Board's opinion, the Complainant failed to provide convincing evidence to justify a change in the assessment.

DATED AT THE CITY OF CALGARY THIS

2

DAY OF September, 2014.

Presiding Officer


Jerry Zezulka

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1.	C1 Complainant Submission
2.	C2 Complainant Rebuttal
3.	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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Decision No. CARB 74329P/2014			Roll No. 095000204	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Multi building warehouse	Market Value	Sales comparison v. Income Capitalization	Onus