



## **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:

***5905 11th Street Holdings Inc. (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: 100006600**

**LOCATION ADDRESS: 5905 - 11 Street SE**

**FILE NUMBER: 74333**

**ASSESSMENT: \$7,640,000**

This complaint was heard on the 28th 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:

- *J. Langelaar, Agent, MNP LLP*
- *G. Worsley, 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 multi tenant warehouse, located in the Burns Industrial community in SE Calgary. The building contains 65,084 square feet (s.f.) of assessable area. The building was built in 1971, and is classified as a class "C" building. The assessable land area is 5.61 acres. Site coverage is 26.12 per cent.

**Issues:**

- (3) The property is currently being assessed by the City using the sales comparison approach. The current assessment is equal to \$117.41 s.f. of building area.
- (4) The Complainant argues that the current assessment is in excess of market value.
- (5) The Complainant further argues that the subject property sold in April, 2012, for \$6,400,000. Evidence to verify the sale was submitted by the Complainant, and was not disputed by the Respondent.

**Complainant's Requested Value:** \$6,610,000

**Board's Decision:**

- (6) The assessment is reduced to \$6,610,000.

**Legislative Authority, Requirements and Considerations:**

- (7) This Board derives its authority from section 460.1(2) of the Act.

- (8) Section 2 of 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"*

(9) Section 467(3) of the Municipal Government 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."*

(10) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

(11) The Board notes that the assessment has increased from \$6,400,000 in 2013, to \$7,640,000 in 2014.

### **Position/Evidence of the Parties**

(12) In support of the request, the Complainant submitted three sales transactions, including the 2012 sale of the subject. The time adjusted selling prices range from \$98 to \$129 per s.f. The median is \$102, which is also the time adjusted selling price of the subject.

(13) The Respondent provided four industrial property sales, including the subject. The median time adjusted selling price reflected is \$122.13 per s.f.

### **Findings and Reasons for Decision:**

(14) Neither set of comparables submitted by the parties is considered by the Board to be more convincing than the other.

(15) As far as the 2012 sale of the subject is concerned, the Board refers to the "Acton" decision of the Court of Queen's Bench, 2005 ABQB 512, in which it states;

*"it seems to me to be worth remembering that where the Assessment Act, R.S.O. 1980, c.31 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 (s. 18(2), the price paid in a recent free sale of the subject property itself, where, as is this case, there are neither changes in the market nor to the property in the interval, must be very compelling evidence indeed as to what the market value of the property is. It is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.*

*...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value."*

(16) This Board is of the opinion that the key phrase in the Acton decision is *"where.....there are neither changes in the market nor to the property in the interval...."*. It is a commonly accepted fact that Calgary has a fluid real estate market where property values are either increasing or decreasing at any given time. In this instance the time adjustment applied was not disputed by either party.

(17) This Board is of the opinion that the best indicator of market value of a property is the arms length sale of the property itself, with appropriate adjustments, as outlined in the Acton decision of the Court of Queens Bench.

DATED AT THE CITY OF CALGARY THIS  
Presiding Officer

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DAY OF September, 2014.

A handwritten signature in black ink, appearing to read 'Jerry Zezulka', written in a cursive style.

Jerry Zezulka

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

NO.	ITEM
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- |    |                           |
|----|---------------------------|
| 1. | C1 Complainant Disclosure |
| 2. | 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**

Decision No. CARB 74333P/2014			Roll No. 100006600	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Industrial	Market Value	Selling price as value.	Selling price as value