



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:

***McGill Holdings Ltd., 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:	033036203
LOCATION ADDRESS:	4204 12 St NE
FILE NUMBER:	74464
ASSESSMENT:	\$4,770,000

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 4204 12 St NE, in the McCall Industrial District of northeast Calgary. The site is 2.36 acres. A multi-tenant, warehouse of 37,000 square feet (SF) demised into seven bays is located on the property (average bay size is 5,286 SF). This results in site coverage of 36.06%. The building was constructed in 1973 and has an 'L-shape' configuration. 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 exterior cladding around the upper portion of the building. There is no mezzanine area. The Assessment Explanation Summary indicates 31% 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 \$4,770,000 (\$129/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:

\$3,770,000

Board's Decision:

[6] The 2014 Property Assessment of \$4,770,000 is confirmed. Based on the comparable sales presented by the Complainant, the Board is not persuaded that the subject property is incorrectly assessed.

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 \$129/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 \$102/SF, which results in the requested assessed value of \$3,770,000.

[10] In Exhibit C1, the Complainant presents three 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 three Comparable Sales presented have a time adjusted sale price of \$94/SF, \$102/SF and \$124/SF. The Complainant stated that the median sale price of this range, \$102/SF is the best indication of the market value of this subject and used this value as the basis for the requested assessment.

[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] In rebuttal, 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 75, Exhibit R1). The Complainant argued that:

- the Sale property located at 1314 44 Av NE is relatively comparable.
- the Sale property located at 655 42 Av NE was constructed in 1998 compared to the 1973 subject year of construction, therefore is a much newer building and not comparable.
- the Sale property located at 2801 18 St NE has 64% finish compared to the subject's 6% finish; and has site coverage of 23.53% compared to the subject 36.06%, therefore is superior to the subject.

[15] The Complainant presented further analysis on page 4 Exhibit C2 using the six comparable sales presented by the Respondent (page 75, Exhibit R1) and after excluding the sales located at 655 42 St NE (age of construction) and 2801 18 St NE (site coverage) showed that the median value was \$108/SF and average was \$109/SF. The Complainant used this analysis to demonstrate that even just using the most comparable of the sales used by the Respondent, the 2014 Assessment was too high and should be reduced.

Respondent's Position:

[16] 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.

[17] 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 comparable sales are in the same range as the subject.

[18] Regarding the Complainant's Comparable Sales, the Respondent argued that they exhibit the following weaknesses:

- the Sale located at 4826 11 St NE is a single tenant, so not comparable to the subject multi-tenant building. Furthermore, this building has been vacant and undergoing renovations for some five years, which makes it atypical and not a good comparable.
- the Sale located at 2835 23 St NE is a multi-building property, so not similar to the subject.
- the Sale located at 1423 45 St NE is a good comparable sale.

[19] The Respondent presented its analysis on page 75, Exhibit R1. The analysis includes two of the three Complainant comparable sales (excluding 4825 11 St NE because it's a single tenant building) plus three new comparable sales. The indicated mean of these five sales is \$138.61/SF and median of \$124.26/SF. The Respondent argued that this supports the assessment, done at a value of \$129/SF.

Findings of the Board:

[20] 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.

[21] The Board notes the wide range of sale prices for the comparable sales presented by both parties. The requested assessment of \$102/SF is based on a multi-building property with 33 units averaging a bay size of about 1,475 SF. This is considerably smaller than the subject's average bay size of 5,286 SF. This property does not operate or participate in the same market as the subject, so is not considered a good comparable for the subject property. The Sale located at 4826 11 St NE is a single tenant property with some atypical characteristics, being vacant for some five years, therefore is not considered a good comparable sale for the subject property. This leaves only the sale property located at 1423 45 Av NE which sold for a TASP of \$124/SF. This one sale comparable does not demonstrate that the assessed value of \$129/SF is incorrect.

[22] The Board finds that two of the three comparable sales presented by the Complainant are not very similar to the subject. The one remaining comparable sale does not demonstrate that the assessment is incorrect. The Board finds that the assessed value of \$4,770,000 (\$129/SF) is correct.

[23] 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:

[24] The Board considered the evidence presented by the Complainant and found that one of the three comparable sales was a good indicator of the market value of the subject and that this value did not demonstrate that the 2014 Assessment is incorrect. The Board confirms the 2014 Assessment of \$4,770,000.

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

A handwritten signature in black ink, appearing to read 'I. Weleschuk', written over a horizontal line.

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.*

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