



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:

***Cal Fund Investments 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:	033037300
LOCATION ADDRESS:	1329 45 Av NE
FILE NUMBER:	74646
ASSESSMENT:	\$5,460,000

This complaint was heard on 18th 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:

The subject property is located at 1329 45 Av NE, in the McCall Industrial District of northeast Calgary. The site is 2.79 acres. The property consists of a 50,750 square foot (SF) single tenant warehouse constructed in 1974. This results in site coverage of 42.36%. There is some mezzanine office area, which results in a total assessable area of 55,574 SF. The building is cinder-block construction and located adjacent to the back of the property. As a result, the man-doors and overhead loading bay doors are located on the front of the building. The Assessment Explanation Summary indicates a finish of 18%.

[3] 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 \$5,460,000 (\$98/SF).

Issues:

[4] 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:

\$4,930,000

Board's Decision:

[5] The 2014 Property Assessment of \$5,460,000 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:

[6] 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.

[7] 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:**

[8] The Complainant's position is that the \$98/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 \$89/SF, which results in the requested assessed value of \$4,930,000.

[9] In Exhibit C1, the Complainant presents two Comparable Sales (summarized on page 15) 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.

[10] The two Comparable Sales presented have a time adjusted sale price of \$89/SF and \$94/SF. The Complainant stated that the sale located at 3650 12 St NE is the best comparable sale. Therefore, based on this sale, the indicated value of the subject property is \$89/SF and used this value as the basis for the requested assessment.

[11] 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 comparable sale located at 3650 12 St NE is very similar to the subject for these three characteristics.

[12] In rebuttal (page 4, Exhibit C2), the Complainant argued that the three sales comparables presented by the Respondent and which were not common to the comparable sales used by the Complainant, were not very similar to the subject and should be given little weight. Specifically;

- The properties located at 3202 12 Av NE and 3651 23 St NE have site coverage of 26% and 55% respectively, compared to the subject's 42.36% site coverage.
- The property located at 1423 45 Av NE is a multi tenant warehouse of six units while the subject is a single tenant warehouse, therefore is not comparable.

Respondent's Position:

[13] 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.

[14] The Respondent noted that the requested assessment is based on one sales comparable, located at 3650 12 St NE. The Respondent argued that the purchaser of this property did extensive renovations to this property after it was purchased, indicating that there was deferred maintenance and that the sale price reflected the need to undertake these renovations. As a result, the sale price does not represent the value of the subject, which is not in need of renovations. The other sale comparable presented by the Complainant, located at 4826 11 St NE is a warehouse that has been vacant for five years, and has been in a state of major renovations for a good portion of these five years. As a result, it is not a typical warehouse property and should not be relied on to reflect the value of the subject.

[15] The Respondent presented its analysis on page 53, Exhibit R1. The analysis consists of three comparable sales. The Respondent argued that this supports the assessment, done at a value of \$98.32/SF.

Findings of the Board:

[16] There was much discussion by both parties as to the comparability of the sales presented.

[17] The Board notes that the requested assessment at a rate of \$89/SF is based on the sale of the property located at 3650 12 St NE. As this property is not exactly the same as the subject in all characteristics, the Board cannot rely on just this one sale. Based on this one comparable sale, the Board is not persuaded that the 2014 Assessment is incorrect.

[18] 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:

[19] The Board considered the evidence presented by the Complainant and is not persuaded that the subject property is incorrectly assessed. The Board confirms the 2014 Assessment of \$5,460,000.

DATED AT THE CITY OF CALGARY THIS 11 DAY OF July 2014.

A handwritten signature in black ink, appearing to read 'I. Weleschuk', is 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 Bay size