



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:

***The Standard Life Assurance Company of Canada
(as represented by AEC Property Tax Solutions), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***H. Kim, PRESIDING OFFICER
R. Roy, BOARD MEMBER
D. Steele, BOARD MEMBER***

This is a complaint to the Calgary Assessment Review Board (the 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:	091019604
LOCATION ADDRESS:	4344 12 St SE
FILE NUMBER:	74912
ASSESSMENT:	\$3,600,000

This complaint was heard on the 26th day of August, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- J. Smiley, Agent, AEC Property Tax Solutions
- M. Kudrycki, Agent, AEC Property Tax Solutions

Appeared on behalf of the Respondent:

- I. McDermott, Assessor, the City of Calgary

Property Description:

[1] The subject property is a 30,124 square foot (sf) single tenant industrial warehouse built in 1971 on a 1.55 acre parcel zoned Industrial General (I-G) in the Highfield (HF1) district of the Central Zone in southeast Calgary. It has a building footprint of 30,124 for site coverage of 44.60%.

[2] The building is assessed using the direct sales comparable approach as IW S (Industrial warehouse 2 or less units) \$219.83/sf for a calculated value of \$3,609,836 and truncated to arrive at the assessment under complaint.

Issues:

[3] The Complaint form listed a number of issues under Reason(s) for Complaint, but at the hearing the only issue argued was whether the assessment should be based on the industrial sales valuation model or adjusted to reflect the sale price of the subject property.

Complainant's Requested Value: \$3,260,000

Board's Decision:

[4] The assessment is reduced to \$3,260,000

Legislative Authority, Requirements and Considerations:

[5] The composite assessment review board (CARB) derives its authority from Part 11 of the Act:

Section 460.1(2): Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

[6] For purposes of the hearing, the CARB will consider the Act Section 293(1):

In preparing the assessment, the assessor must, in a fair and equitable manner,
a) *apply the valuation and other standards set out in the regulations, and*
b) *follow the procedures set out in the regulations.*

[7] The regulation referred to in the Act section 293(1)(b) is Alberta Regulation 220/2004, Matters Relating to Assessment and Taxation Regulation (MRAT). Part 1 sets out the Standards of Assessment - section 4 specifies the valuation standard and section 2 describes the requirement for mass appraisal:

- 2 *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.*

- 4(1) The valuation standard for a parcel of land is
a) market value, ...

Complainant's Position:

[8] The subject property transferred on November 6, 2013 for \$3,264,389. The Complainant presented the RealNet and Commercial Edge sale documentation identifying GE Canada Real Estate Equity Holding as the vendor and the current owner as the purchase. This was an arms-length sale between unrelated parties, and no atypical conditions were reported.

[9] The subject transaction occurred after the valuation date, but within the assessment year. The Complainant stated that the market did not increase between the valuation date and the transfer date, and typically commercial transactions transfer some months after the agreements are signed. The Complainant presented a number of CARB decisions accepting transactions after the valuation date within the valuation year as representative of market value.

[10] The Complainant presented the decision of Madam Justice L. D. Acton in *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB 512 (Acton Decision) in support of the position that an arms-length sale of a property, from a willing seller to a willing buyer, where there have been no changes in the market nor to the property in the intervening time, is the best indicator of the market value of that property. The 2014 assessment of the subject should reflect the sale price and be reduced to \$3,264,389 truncated to \$3,260,000.

Respondent's Position:

[11] The Respondent stated that the purpose of property assessments is not to reflect one sale price, but to assess all similar property at a similar value so that taxation is fairly and uniformly distributed among all taxable property. Therefore the assessor must look at sales of similar property and not just the subject sale.

[12] The Respondent presented five single- multi-tenant industrial properties in the Central zone that sold in the analysis period prior to the valuation date, as well as two post facto sales including the subject:

Address		Parcel (ac)	Bldg Area	AYOC	NRZ	Site Cov	Sale date	Sale Price	TASP	TASP/sf
5824 Burbank Rd SE	IW M	2.38	40,613	1971	BU1	38.46	28/12/2012	5,565,000	5,565,000	137.03
5539 1 St SE	IW S	2.04	40,420	1975	SM3	44.63	28/09/2011	3,825,000	4,147,065	102.60
503 42 Ave SE	IW M	1.87	30,000	1962	NM2	36.81	31/01/2013	4,500,000	4,500,000	150.00
419 34 Ave SE	IW M	2.31	29,931	1955	NM3	31.12	25/11/2011	4,700,000	5,027,590	167.97
437 36 Ave SE	IW S	1.31	20,160	1970	NM3	35.24	14/09/2011	3,550,000	3,848,910	190.92
		Median		1970		36.81				150.00
		Average		1967		37.25				149.70
Post Facto Sales										
7029 Farrell Rd SE	IW S	1.02	26,680	1964	FV1	58.01	28/10/2013	3,450,000	3,450,000	129.31
4344 12 St SE	IW S	1.55	30,124	1971	HF1	44.60	06/11/2013	3,264,389	3,264,389	108.37

[13] The subject property sold within the range of similar properties, and its assessment at \$119.83 is also within the range. Some of the sales are multi-tenant but the Respondent stated that in this size range single-tenant sells for more, as they are commonly purchased by owner occupants, who generally outbid investors. The Respondent did not have an Assessment Request for Information (ARFI) for the sale of the subject property, but the ARFI for 7029 Farrell Road SE was presented to show that the sale price was agreed upon on July 3, 2013 very close

to the valuation date. The Respondent stated that the sales data would have to be studied to determine whether a time adjustment was required for sales after the valuation date. As this has not yet been done, the November sale price of the subject property may not reflect its market value at July 1, 2013. The Respondent noted that the average of the sales in the valuation period is \$150/sf while the two post facto sales average \$119/sf.

[14] The Respondent also presented seven equity comparables of single-tenant properties, of similar building area, parcel size and site coverage to the subject, with AYOC 1965 to 1980 in the Central district. The assessments range from \$113.75/sf to \$138.84/sf and demonstrate that the subject at \$119.83/sf is assessed equitably with similar properties.

Complainant's Rebuttal:

[15] The Complainant noted that the assessment values came out of the same model, but three of the five sales were multi-tenant. The Complainant noted that smaller bays equate to higher lease rates and disputed the Respondent's contention that single-tenant in the size range of the subject sell for more than multi-tenant.

Board's Reasons for Decision:

[16] The Board agrees that in property assessment, similar property should be assessed at a similar value so that taxation is fairly and uniformly distributed. The determination of similar property and similar value is based on the valuation model, in which various characteristics of dissimilar properties which sold are analysed statistically to estimate the market value of a property that did not sell. The subject property did sell, after the valuation date but within the assessment year. The Board does not find that average sale prices for the very small sample size support the position that prices dramatically declined after the valuation date. The two sales were well within the range and suggest the market was stable. Further, the Board agrees that the sale price was likely negotiated in advance of the transfer date, and that the November 2013 sale price would be a good indication of its value at July 2013. This was substantially less than what the valuation model predicted, with no unusual circumstances to suggest that the sale was not at market value. Under such circumstances, the Board considers the sale price to be a more reliable indicator of the market value of the subject than the value generated by the Respondent's statistical model.

[17] Accordingly, the Board finds that the sale price of the subject at November 2013 provides the best indication of market value of the subject for the 2014 assessment.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF September 2014.


H. Kim

Presiding Officer

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

NO.	ITEM
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 Administrative Use Only

Property Type	Property Sub-Type	Issue	Sub-Issues
(4) Warehouse	Single Tenant	Sales Approach	Comparables