

## 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:

***Mash Investments Ltd., Libtel Investments Ltd.,  
Aviva Holdings Ltd., Markis 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:

<b>ROLL NUMBER:</b>	<b>033039108</b>
<b>LOCATION ADDRESS:</b>	<b>3625 12 St NE</b>
<b>FILE NUMBER:</b>	<b>75053</b>
<b>ASSESSMENT:</b>	<b>\$2,040,000</b>

This complaint was heard on 18<sup>th</sup> 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 3625 12 St. NE, in the McCall Industrial District of northeast Calgary. The site is 0.91 acres. A single-tenant warehouse of 7,332 square feet (SF) is located on the property. This results in site coverage of 18.56%. The building was constructed in 1975 but underwent substantial renovations in 2000, when the current owner purchased the property to turn it into an office and lense grinding operation. About a third of the building was not renovated and is currently used in part for storage and in part leased to a church. Some of the overhead doors have been sealed, leaving the main entrance on one side, and a man-door and overhead loading door on the portion of the building that was not renovated. The building is cinder-block construction, with some cladding on the upper front exterior face. The Assessment Explanation Summary indicates 43% finish.

[4] 2014 property 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 \$2,040,000 (\$279/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:**

**\$1,370,000**

**Board's Decision:**

[6] The 2014 Property Assessment is reduced to \$1,750,000. The Board considered the Comparable Sales presented by both parties and concluded that the market value of the subject property is \$240/SF.

**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 \$279/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 \$187/SF, which results in the requested assessed value of \$1,370,000.

[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 \$174/SF, \$187/SF and \$310/SF. The Complainant stated that the comparable sale located at 1240 36 Av NE is the most comparable to the subject, and used that time adjusted sale price of \$187/SF as the basis for its requested assessment, as this best reflects the market value of the subject. This property was a typical warehouse when it was purchased and the new owners are converting it into a church, therefore it is receiving substantial renovations associated with this conversion.

[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 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 76, Exhibit R1). The Complainant argued that:

- the Sale property located at 220 19 St NE is located in Mayland Heights, so in a much superior area, making the \$300/SF TASP not comparable to the subject. The Complainant also argued that this sale involved a lease-back arrangement.
- the Sale property located at 2325 20 Av NE indicates on the Non Resident Property Sale Questionnaire (page 6, Exhibit C2) that this is a non-arms length sale, therefore the sale is not reliable. It also involves a building constructed in 1996, compared to the subject property constructed in 1975.
- the Sale property located at 1240 36 Av NE is common to both parties and is the best sale to indicate the value of the subject, at \$187/SF.
- the Sale property located at 428 Moraine Rd NE consists of two warehouse buildings, therefore not comparable to the subject (page 10, Exhibit C2).

**Respondent's Position:**

[14] 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 AYOOC, 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. While the model uses all the Complainant's comparable sales, that does not mean that they are all considered good comparables to the subject.

[15] The Respondent noted that the requested assessment is based on one comparable sale, and argued that one sale does not define a market.

[16] Regarding the Complainant's Comparable Sales, the Respondent took the position that, with regard to:

- The Sale property located at 2711 5 Av NE, there were no overhead bay doors in the property at the time of sale. The Non Residential Property Sale Questionnaire (page 19-22, Exhibit R1) also indicates that this sale was not brokered and at time of sale, the property was in "fair" condition. Therefore, this sale cannot be relied on.
- The Sale property located at 1240 36 Av NE is undergoing substantial renovations after it was purchased, which indicates that there may have been some deferred maintenance.
- The Sale property located at 428 Moraine Rd NE consists of an office/warehouse building of 5544 SF plus a 3,627 SF metal Quonset that is not accounted for in the Complainant's analysis, resulting in the \$310/SF TASP. This Quonset is considered as cold storage for assessment purposes, but does contribute to the value of the property. Furthermore, this property sold twice in 2011, and both sales are in the City's database. The Complainant shows the initial sale price of \$1,600,000 for this property, not the subsequent sale at \$1,950,000 shown in the Respondent's analysis.

[17] The Respondent presented its comparable sales on page 98 of Exhibit R1, which includes the sale located at 428 Moraine Rd NE with the correct information for the most recent 2011 sale. The average (mean) of these four comparable sales is \$283.75/SF with a median of \$279.24/SF. The Respondent stated that this supports the assessed rate of \$278.65/SF.

**Findings of the Board:**

[18] The Board notes that the subject property is not a typical warehouse, in that the wall height is less than a typical warehouse, and about two-thirds of the property is used as an office and manufacturing facility, with a much higher degree of finish than in a typical warehouse.

[19] 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.

[20] The Board considered all the evidence and argument on the various comparable sales presented by both parties. The sale property located at 220 19 St NE is located in a higher valued area of the northeast, but the Board accepts this as a valid sale because there was no evidence presented that the sale or lease back occurred at non-market rates. The sale property located at 2325 20 Av NE is a 1996 property and reflects in part the renovations done to the subject in 2000, so is considered comparable to the subject. The property at 1240 36 Av NE is common to both parties. The three sales range in TASP from 189.39/SF to \$299.55/ SF with a midpoint of \$244.50/SF. The Board rounds this value down to \$240/SF, which it considers the best indication of value for the subject.

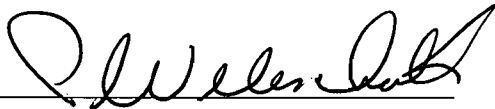
[21] Applying the \$240/SF rate into the assessment calculation, the resulting value is \$1,750,000.

[22] 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:**

[23] The Board selected three comparable sales, one common to both parties, as being the most comparable to the subject. Based on the time adjusted sale price of those three comparable sales, the indicated market value of the subject property is \$240/SF. Based on this per square foot rate, the 2014 Assessed value is reduced to \$1,750,000.

DATED AT THE CITY OF CALGARY THIS 11 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:**

<b>NO.</b>	<b>ITEM</b>
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.*

**For MGB Administrative Use Only**

<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Commercial	Industrial	Sales Comparison	% site coverage Assessable building area Bay size