

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:

Pockar Management Inc.
(represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Ms. V. Higham, PRESIDING OFFICER
Mr. R. Cochrane, BOARD MEMBER
Mr. P. Cross, 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 (the City) and entered in the 2014 Assessment Roll as follows:

ROLL NUMBER:	034189514
LOCATION ADDRESS:	4416 5 Street NE Calgary, Alberta
FILE NUMBER:	75083
ASSESSMENT:	\$2,730,000

This complaint was heard on the 21st day of July, 2014 at the office of the Calgary Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta, Fourth Floor, Boardroom 4.

Appeared on behalf of the Complainant:

- **Mr. M. Robinson** **Agent, Altus Group**

Appeared on behalf of the Respondent:

- **Ms. M. Hartmann** **Assessor, City of Calgary**

Procedural or Jurisdictional Matters:

- [1] Neither party objected to the composition of the Board as introduced at the hearing.
- [2] The Board notes an executed Agent Authorization Form present in the file.
- [3] All disclosure materials were received in a timely fashion.
- [4] No preliminary issues were raised by either party.
- [5] This is the “lead file” from which evidence and arguments were carried forward, upon request of both parties, to other complaints heard by this panel the same week.

Property Description:

- [6] The subject is assessed as a multi-tenant industrial warehouse property (IWM), located at 4416 5 Street NE on 1.10 acres of land. With 42% site coverage, the parcel is improved by one building constructed in 1980, comprising 20,400 square feet (sf) of space and assessed at \$134 per square foot (psf), using the direct sales comparison approach to value.

Issues:

- [7] The Complainant identified one matter on the Complaint Form as under complaint, being the assessment amount. The requested valuation noted on the Complaint Form (\$2,080,000) was the basis for the Complainant’s submissions during the hearing, and the following issue was raised for the Board’s consideration:

- 1) What is the correct psf value to apply to the subject property: the assessed \$134 or the requested \$102?

Complainant’s Requested Value: \$2,080,000

Board’s Decision: The Board varies the subject assessment from \$2,730,000 down to a truncated value of **\$2,340,000.**

Legislative Authority, Requirements and Considerations:

[8] A Composite Assessment Review Board (CARB) derives its authority from the *Act*, section 460.1, which reads as follows:

- (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).

Section 293 of the *Act* requires that:

- (1) In preparing an 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.

Sections 2 and 4 of the *Matters Relating to Assessment and Taxation Regulations* (the *MRAT*) state:

- (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, or
 - (b) if the parcel is used for farming operations, agricultural use value.

Position of the Parties

Issue: What is the correct psf value to apply to the subject property: the assessed \$134 or the requested \$102?

Complainant's Position:

[9] The Complainant submitted a table of three comparable sales (all IWM properties), with a median time adjusted sale price (TASP) of \$102 psf, the requested valuation rate. The Complainant also submitted third party reports supporting each sale, and argued that all three comparables (comps) were "over-assessed" with assessment-to-sale ratios (ASRs) of 1.14, 1.14, and 1.33 respectively.

[10] The Complainant argued that the Respondent's single tenant warehouse (IWS) sale is not a good comp, since IWS properties transact in a different market, with different prospective purchasers than do the IWM properties.

[11] In rebuttal, the Complainant submitted Municipal Government Board (MGB) Order 044/05 to support his argument that the Respondent's year of construction (AYOC) 1998 comp should be excluded, owing to the "lull" in industrial warehouse construction in Calgary from the mid-1980s to the mid-1990s. The Board in that decision concluded that: "properties built before 1990 are generally a higher risk investment than newer properties due to differences in wall height, construction materials, location, remaining economic life, and other factors."

[12] In rebuttal, the Complainant also submitted CARB decisions 72276P-2013, 72366P-2013, 1426/2011-P, 0751/2012-P, and 72102/2013-P to support his argument that the Board is free to derive an assessment valuation for the subject based on a single best comp.

Respondent's Position:

[13] The Respondent submitted the City's sales table analysing five comps (three common to the Complainant at 4140 6 Street NE, 1314 44 Avenue NE, and 423 38 Avenue NE), yielding median/mean rates of \$115 and \$119 psf respectively.

[14] The Respondent defended the City's AYOC 1998 comp, arguing that no original source evidence was submitted in the subject hearing to establish a lull in industrial warehouse construction, or to justify in any manner excluding this valid sale. The Respondent further noted that the City's AYOC 1998 sale is as valid and comparable (being 18 years *newer* than the subject), as the Complainant's AYOC 1958 sale (being 22 years *older* than the subject).

[15] The Respondent argued that the City's sales table provides a range of value from \$82 to \$160 psf, within which the subject assessment squarely falls at \$134 psf, and that the City's study better reflects typical market value for the subject, since it includes a larger sample size than the Complainant's.

[16] The Respondent also included an equity table analysing four comparable properties in the north east, with assessed rates ranging from \$131 to \$140 psf.

BOARD'S REASONS FOR DECISION:

[17] The Board finds that the appropriate value to apply to the subject is \$115 psf, based on the mean of the four most comparable properties submitted by both parties.

[18] Analysing all sales submitted, the Board acknowledges that all property characteristics influence the City's regression model in some manner, but some factors influence value more than others.

[19] Since no evidence was submitted by either party relative to how the Board might quantify the various factor adjustments needed to make the respective sales more reliably comparable to the subject, the Board focused on three key factors: *building size*, *year of construction*, and *site coverage* as most relevant to its analysis.

IWS versus IWM Argument:

[20] The Board accepts the Complainant's argument that IWS properties transact in a different market than do IWM properties. Both parties conceded that IWSs typically transact for higher market rates, owing in part to the difference in operations required by prospective purchasers for each property type. Investors in multi-tenant properties, for example, typically focus on the potential rent each unit might garner, rather than the general investment potential of the entire parcel.

[21] Thus, the Board excluded the City's fifth comp (4605 12 Street NE), being an IWS sale.

"Lull" in Construction Argument:

[22] The Board carefully reviewed the Complainant's request to exclude the City's AYOC 1998 sales as being materially different in manner of construction from the subject, owing to the decade-long "lull" in construction from the mid-1980s to the mid-1990s. The Board finds that the evidence submitted by the Complainant on this issue is inconclusive, and does not warrant excluding the sales on that ground.

[23] The Board in the subject hearing had none of the original source evidence before it heard by the MGB panel in 2005 relative to this purported lull, and thus finds no compelling reason to exclude these valid sales based on the "lull" argument.

1998 versus 1958 Sales:

[23] The Board also carefully considered whether the Respondent's remaining AYOC 1998 sale (655 42 Avenue NE) and the Complainant's AYOC 1958 sale (4140 6 Street NE) ought to be accepted, since each sale is approximately 20 years newer or older than the subject. Were there plenty of other good sales to compare the subject against, the Board may have excluded both sales on the age factor alone.

[24] In this case, however, since the City included the AYOC 1958 sale in its study, and since the Board denied the only objection from the Complainant respecting the AYOC 1998 sale, the Board determined that both sales are close enough in several other property characteristics (including building size, land area, site coverage, and finish) as to be reasonably comparable.

Conclusion:

[25] The Board gave no weight to the Respondent's equity table, since equity was not raised as an issue by the Complainant. The Board accepted the four remaining sales (three common to both parties), resulting in median/mean rates of \$109 and \$115 psf respectively.

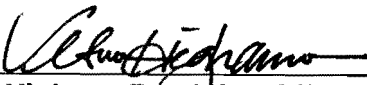
[26] While *median* rates perhaps better represent typical value in larger sample size studies, in this case the Board finds that the *mean* rate better reflects typical market value for the subject, given the relatively small sample size.

[27] Thus, on the evidence submitted, the Board finds that the best indicator of market value for the subject is derived by applying the mean rate of \$115 psf to the subject's assessable area of 20,400 sf, resulting in a truncated value of \$2,340,000.

Board's Decision:

[28] For reasons outlined herein, the Board varies the subject assessment from \$2,730,000 down to a truncated value of **\$2,340,000**.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF AUGUST 2014.



V. Higham, Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant's Disclosure
2. R1	Respondent's Disclosure
3. C2	Complainant's Rebuttal

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 – Roll Number 034189514

Municipal Government Board Use Only: Decision Identifier Codes				
Municipality/Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary CARB	Warehouse	Warehouse-Multi	Sales Approach	Land & Improvement Comparables