



**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:

<b>ROLL NUMBER:</b>	<b>034191007</b>
<b>LOCATION ADDRESS:</b>	<b>640 42 Avenue NE Calgary, Alberta</b>
<b>FILE NUMBER:</b>	<b>75087</b>
<b>ASSESSMENT:</b>	<b>\$5,520,000</b>

This complaint was heard on the 22<sup>nd</sup> 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**
- **Mr. N. Domenie**                      **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] Upon request, the Board agreed to carry forward evidence, arguments, and questioning for both parties from "lead file" #75084 respecting the "single versus multi-building" argument, and from file #75083 respecting the "single best comparable," and "construction lull" arguments, heard by this panel the same week.

**Property Description:**

- [6] The subject is assessed as a multi-tenant industrial warehouse property (IWM), located at 640 42 Avenue NE on 2.12 acres of land, with 43% site coverage. The parcel is improved by one building constructed in 1980, comprising 46,453 square feet (sf) of space, assessed at \$119 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 Complainant requested a different valuation (\$4,730,000) than originally noted on the Complaint Form (\$4,970,000), and raised the following issue for the Board's consideration:

- 1) What is the correct psf value to apply to the subject property: the assessed \$119 or the requested \$102?

**Complainant's Requested Value: \$4,730,000**

**Board's Decision:** The Board confirms the subject assessment at **\$5,520,000**.

**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 \$119 or the requested \$102?**

**Complainant's Position:**

[9] The Complainant submitted a table of four 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 but one of these comparables (comps) were "over-assessed" with assessment-to-sale ratios (ASRs) of 1.22, 1.31 and 1.33 for the first, second and fourth comps respectively.

[10] The Complainant also argued that none of the Respondent's single tenant warehouse (IWS) sales are good comps, 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 two year-of-construction (AYOC) 1998 sales should be excluded, owing to a purported "lull" in industrial warehouse construction in Calgary from the mid-1980s to the mid-1990s. The Board in this MGB 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 – in this case, his first comp at 2835 23 Street NE.

[13] The Complainant further referenced two CARB decisions (74070P-2014 and 74649P-2014) in defence of the Respondent's challenge to the Complainant's multi-building sale (2835 23 Street NE), given the subject is a single building property.

[14] With respect to the Complainant's fourth sale (4140 6 Street NE), the Complainant in rebuttal offered testimonial evidence of an addition to the property in 1980, as well as a development permit issued for site renovation in 1989. Upon questioning, the Complainant stated he has no knowledge of the value or details of these improvements, only that they must have occurred, having himself viewed the development permits.

#### **Respondent's Position:**

[15] The Respondent submitted the City's sales table analysing five comps (two common to the Complainant at 4140 6 Street NE and 1423 45 Avenue NE), yielding median/mean TASP rates of \$124 and \$127 psf respectively.

[16] The Respondent defended the City's two AYOC 1998 comps, 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 these valid sales. The Respondent further noted that the City's two AYOC 1998 sales are 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).

[17] The Respondent submitted CARB decisions 73118P-2013 and 72359P/2013 to support the City's contention that the Complainant's multi-building sale (2835 23 Street NE) is not an appropriate comparable to the single building subject.

[18] The Respondent argued that the City's sales table provides a range of value from \$102 to \$160 psf, within which the subject assessment squarely falls at \$119 psf.

[19] The Respondent also included an equity table analysing six comparable properties in the north east, with assessed rates ranging from \$95 to \$121 psf.

#### **BOARD'S REASONS FOR DECISION:**

[20] The Board finds that the assessed \$119 psf reasonably reflects market value for the subject property, and therefore confirms the assessment.

[21] In analysing the respective sales of both parties, the Board acknowledges that all property characteristics influence the City's regression model in some manner, but some factors influence value more than others.

[22] 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:**

[23] 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 buildings, for example, typically focus on the potential rent each unit might garner, rather than the general investment potential of the entire parcel.

[24] Thus, the Board excluded all IWS sales, being the Respondent's first two comps at 3651 23 Street NE and 2559 29 Street NE.

**“Lull” in Construction Argument:**

[25] The Board carefully reviewed the Complainant's request to exclude the City's two AYOC 1998 sales (2559 29 Street NE and 655 45 Avenue NE) 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 this ground.

[26] 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.

**Multi-Building versus Single Building Argument:**

[27] With respect to the Complainant's multi-building sale challenged by the Respondent (2835 23 Street NE), the Board accepts the Complainant's argument that a multi-building sale may be compared to a single building subject, so long as the buildings in the comparable sale are similar enough in property type and characteristics to each other, and to the subject, as to be reasonably comparable.

[28] The Board concludes that an investor in the marketplace would evaluate a multi-building property based on the combined square footage of all buildings on site, since in most instances, multi-building parcels cannot be subdivided and sold separately. Thus, while improved with multiple buildings, such a parcel is likely to transact in the marketplace as *one property* (CARB 72357P-2013).

[29] In examining the Complainant's multi-building sale (2835 23 Street NE), the Board finds that the property characteristics of this comp are extremely similar to the subject relative to the identified key factors, and thus accepts the sale.

**1998 versus 1958 Sales:**

[30] 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.

[31] 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 similar enough in other property characteristics (including building size, land area, site coverage, and finish) as to be reasonably comparable.

**Conclusion:**

[32] The Board gave no weight to the Respondent's equity table, since equity was not raised as an issue by the Complainant. The Board also gave little weight to the Complainant's verbal testimony relative to the purported improvements on his AYOC 1958 comp (4140 6 Street NE), since no corroborating evidence was proffered.

[33] The Board accepted the five remaining sales from both parties (2835 23 Street NE, 3651 21 Street NE, 655 42 Avenue NE, and two common at 4140 6 Street NE and 1423 45 Avenue NE), resulting in median/mean rates of \$102 and \$114 psf respectively, and a range of values from \$84 to \$160 psf.

[34] The Board concludes that while *median* rates perhaps better represent typical value in larger studies, given the broad range of values for this small sample of five sales, applying a *mean* rate would better reflect market conditions.

[35] Applying the mean rate of \$114 psf to the subject's assessable area of 46,453 sf, results in a truncated value of \$5,290,000 – which is within 4% of the current subject assessment.

[36] The Board reviewed section 467(3) of the *Act*, which reads:

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,

[37] The Board also reviewed section 10(3) of the *MRAT*, which identifies an acceptable “quality standard range” within which the preparation of assessments ought to fall (a range of  $\pm 5\%$  applies to the subject).

[38] The Board concludes that *absent more compelling evidence* to justify altering the assessment, the subject's current assessment reasonably reflects typical market value on the facts of this case.

**Board's Decision:**

[39] For reasons outlined herein, the Board confirms the subject assessment at **\$5,520,000**.

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

  
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V. Higham, Presiding Officer

## APPENDIX "A"

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

<b>NO.</b>	<b>ITEM</b>
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 034191007**

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