

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:

820788 Alberta Ltd. (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: 119012201

LOCATION ADDRESS: 4076 96 Ave SE

FILE NUMBER: 75268

ASSESSMENT: \$3,250,000

This complaint was heard on the 27th 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:

- T. Nguyen, Assessor, the City of Calgary

Property Description:

[1] The subject property is a 15,000 square foot (sf) single tenant industrial warehouse built in 2003 on a 4.08 acre parcel zoned Industrial General (I-G) in the South Foothills (FO2) district of southeast (SE) Calgary. It has a building footprint of 13,500 for site coverage of 7.60%.

[2] The building is assessed using the direct sales comparable approach as IW S (Industrial warehouse 2 or less units) at \$216.93/sf for a calculated value of \$3,254,008 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 time adjusted sale price (TASP) of the subject property.

Complainant's Requested Value: \$2,880,000

Board's Decision:

[4] The assessment is reduced to \$2,880,000

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.*

- 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.
- 4(1) The valuation standard for a parcel of land is
- a) market value, ...

Complainant's Position:

[8] The subject property transferred on November 3, 2011 for \$2,700,000. The Complainant presented the RealNet and Commercial Edge sale records identifying the vendor as M & M Holdings Corp. and the current owner as purchaser. It was an arms-length sale between unrelated parties, and no atypical conditions existed. The building is owner occupied by the purchaser.

[9] The subject transaction is listed in the Respondent's list of industrial sales July 2010 – June 2013 showing a time-adjusted sale price of \$2,888,190. The list of sales is all of the validated transactions in the three years prior to the valuation date, which is analysed by the Respondent to develop the industrial sales valuation model. The inclusion of this sale on the list shows that the Respondent concurs that it is a valid sale and indicative of a market value transaction.

[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. In the subject case, the Respondent's time adjustment accommodates changes in the market between the November 2011 sale date and the valuation date. Therefore, the TASP is the best indicator of market value of the subject and the 2014 assessment should reflect the TASP and be reduced to \$2,888,190 truncated to \$2,880,000.

Respondent's Position:

[11] The Respondent stated that the sale of the subject property is a valid sale, but MRAT requires the assessment to be prepared using mass appraisal. Therefore the assessor must look at sales of similar property and not just the subject sale. The Respondent presented four comparable single-tenant industrial properties in the SE zone that sold in the analysis period prior to the valuation date:

Address	Parcel size (ac)	Bldg Area	AYOC	NRZ	Site Coverage	Sale date	Sale Price	TASP	TASP/sf
11079 72 St SE	1.57	15,511	2008	FO3	18.63	12/06/2012	2,900,000	2,959,160	190.78
7491 110 Ave SE	2.30	15,500	2011	FO3	15.47	04/04/3011	3,385,000	3,787,477	244.35
4550 35 St SE	1.31	13,072	2000	VA1	22.87	28/03/2012	3,190,000	3,321,428	254.09
4334 110 Ave SE	1.07	11,097	2006	DU1	23.86	04/09/2012	3,400,000	3,400,000	306.39
Median									249.22
South Foothills reduction									224.30

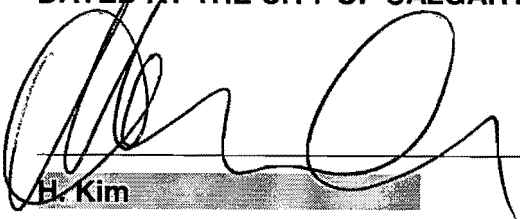
[12] The comparable sales are not in South Foothills. The area was previously zoned Limited Service Industrial (I4), but in recent years services were installed. The costs were charged to property owners in the form of a local improvement tax. FO1 and FO2 have a 10% reduction applied to recognize the negative influence of this atypical expense. With the 10% reduction applied, the median of the comparable sales is \$224.30 compared to the subject assessment at \$216.93. This demonstrates that the subject assessment is reasonable and reflects the mass appraisal determination of market value.

Board's Reasons for Decision:

[13] The Board agrees that the legislation requires the assessment be prepared using mass appraisal. The Respondent complies with this requirement by preparing the assessment on a mass appraisal basis using the valuation model. The valuation standard in the legislation is market value, and the valuation model statistically analyses characteristics of dissimilar properties which sold to estimate the market value of a property that did not sell. The subject property did sell, two years prior to the valuation date but within the analysis period. Sales within the analysis period are given a time adjustment for the purposes of entering into the model, and the Respondent agreed that the TASP was intended to reflect market value as of the July 2013 valuation date. In the subject case, the TASP was substantially less than what the valuation model generates. Under such circumstances, the Board considers the TASP to be a more reliable indicator of the market value of the subject than the value generated by the Respondent's statistical model.

[14] Accordingly, the Board finds that the TASP of the November 2011 sale provides the best indication of market value of the subject for the 2014 assessment.

DATED AT THE CITY OF CALGARY THIS 15th DAY OF September 2014.

A large, stylized handwritten signature in black ink, appearing to be 'H. Kim', is written over a horizontal line. Below the line is a rectangular stamp with the text '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.*

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