



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:

879076 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:	033045808
LOCATION ADDRESS:	4140 6 St NE
FILE NUMBER:	75859
ASSESSMENT:	\$3,580,000

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 26,570 square foot (sf) industrial warehouse built in 1958 on a 1.69 acre parcel zoned Industrial General (I-G) in the Greenview area of northeast (NE) Calgary. The building has a footprint of 25,340 sf and site coverage of 34.5%.

[2] The building is assessed using the direct sales comparable approach as IW M (Industrial warehouse 3 or more units) at \$134.91/sf for a calculated value of \$3,584,577 which, truncated, results in 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: \$2,700,000

Board's Decision:

[4] The assessment is reduced to \$2,700,000

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 April 29, 2013 for \$2,700,000. The Complainant presented the RealNet and Commercial Edge sale documentation identifying the sale as being between unrelated parties, and stated that conversations with the current owner confirmed the vendor and purchaser were unrelated, and no atypical conditions existed.

[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 \$2,700,000 (i.e. no change in market value between the sale and valuation dates). This is the list of sales on which the Respondent relies to develop the industrial sales valuation model, and the inclusion of this sale 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. The 2014 assessment of the subject should reflect the sale price and be reduced to \$2,700,000.

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 multi-tenant industrial properties, including the subject, in the NE that sold between August 2011 and April 2013.

Address	Parcel size (ac)	Bldg Area	# units	AYOC	NRZ	Sale date	Sale Price	TASP	TASP/sf
1423 45 Av NE	2.16	37,018	6	1973	MC3	09/21/2012	4,600,000	4,600,000	124.26
655 42 Ave NE	1.48	26,984	3	1998	GV6	01/18/2012	4,100,000	4,326,730	160.34
4140 6 St NE	1.69	26,570	13	1958	GV1	04/29/2013	2,700,000	2,700,000	101.62
2801 18 St NE	1.33	18,024	4	1980	SA3	08/11/2011	3,000,000	3,274,500	181.67
3516 26 St NE	1.02	14,535	7	1979	HZ2	11/07/2012	2,030,000	2,030,000	139.66
Median		26,570		1979					139.66
Average		24,626		1978					141.51

[13] The subject property sold at the lower end of the scale but the assessment is within the range of similar properties. Four comparable multi-tenant properties, of similar building area, parcel size and site coverage to the subject, with AYOC 1975 to 1979 were presented. The

assessments range from \$141.73/sf to \$144.57/sf and demonstrate that the subject at \$134.91/sf is assessed equitably with similar properties.

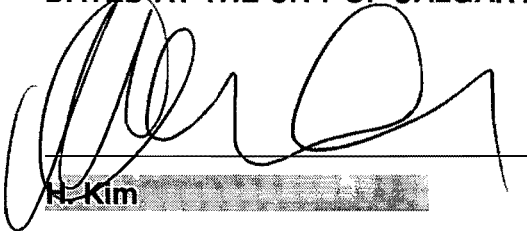
Board's Reasons for Decision:

[14] 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.

[15] The subject property did sell, for a value 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.

[16] Accordingly, the Board finds that the sale price of the subject, very close to the valuation date and not time-adjusted by the Respondent for the valuation model, 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.*

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