



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:

***Canadian Linen and Uniform Service Co.
(represented by Altus Group), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Ms. V. Higham, PRESIDING OFFICER
Mr. J. Kerrison, BOARD MEMBER
Mr. J. Massey, 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:	090088808
LOCATION ADDRESS:	4525 Manilla Rd SE Calgary, Alberta
FILE NUMBER:	76209
ASSESSMENT:	\$8,400,000

This complaint was heard on August 12, 2014 at the office of the Calgary Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta, 4th Floor, Boardroom 5.

Appeared on behalf of the Complainant:

- **Mr. B. Neeson** **Agent, Altus Group**

Appeared on behalf of the Respondent:

- **Mr. K. Mulenga** **Assessor, City of Calgary**
- **Mr. M. Ryan** **Assessor, City of Calgary**
- **Mr. R. Tharakan** **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.

Property Description:

[5] The subject is assessed as a B quality, low rise suburban office property (CS0302), located at 4525 Manilla Road SE on 1.70 acres of land. The owner-occupied parcel is improved by one building constructed in 1980, comprising an area of 44,580 square feet (sf) of space. The subject is assessed on the income approach to value, with an applied office rental rate of \$16 per square foot (psf), a vacancy rate of 9%, and a capitalization (cap) rate of 7%.

Issues:

[6] The Complainant identified one matter on the Complaint Form as under complaint, being the assessment amount, though he attached a one page addendum identifying specific grounds for appeal of the assessment amount, including: "A large portion of this property has been assessed incorrectly as office space. It should be assessed as office warehouse space with the corresponding rental rate."

[7] At the hearing, the Complainant requested a different requested assessment amount (\$7,450,000) than originally noted on the Complaint Form (\$6,125,000), and raised the following sole issue for the Board's consideration:

- 1) What is the correct sub-property use for the subject: the assessed suburban office (CS0302), or the requested suburban office warehouse (CS1835)?

Complainant's Requested Value: \$7,450,000

Board's Decision: The Board varies the subject assessment from \$8,400,000 down to a truncated value of **\$7,450,000**.

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 sub-property use for the subject: the assessed suburban office (CS0302), or the requested suburban office warehouse (CS1835)?

Complainant's Position:

[9] The essence of the Complainant's position is that the subject is incorrectly assessed as suburban office, which should be corrected to suburban office warehouse, since the majority of the subject's floor space is utilized for the manufacture and storage of uniforms.

[10] The Complainant submitted detailed floor plan renderings, as well as 22 pages of exterior and interior photos which reveal multiple "sewing stations" and an expansive racking system installed in the first floor ceiling to hang and transport uniforms. The owner-occupied space has been extensively refitted to accommodate this racking system, including a sizable opening in the ceiling of the first floor to transport uniforms between the first and second floors on this tracking system.

[11] The Complainant submitted that the property only maintains a handful of offices in the building with computer stations; the vast majority of space is maintained with sewing and manufacturing stations and systems designed to produce and distribute uniforms.

[12] The Complainant noted that the entire first floor space is covered in tile flooring to accommodate numerous mobile storage racks and roller conveyance tracks that move uniforms throughout the facility. The second floor has industrial grade carpet to accommodate the north east corner of the building housing the office wing.

[13] The Complainant also submitted the City's 2014 office warehouse rental analyses across all quality classes, as well as Property Assessment Summary Reports (PDRs), income valuation summaries, photos, and maps for each property in each of the studies, plus two additional equity comparables (comps) at 4015 1 Street SE and 4124 9 Street SE.

[14] In summary, the Complainant argued that the subject's current assessment contravenes section 289(2)(a) of the *Act*, in that the City's designation of suburban office in no manner reflects the office warehouse characteristics and physical condition of the building. Section 289(2)(a) reads:

Each assessment must reflect the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Par 10 in respect of the property.

[15] The Complainant also submitted CARB 72488/P-2013 and LARB 73263B-2013, wherein those boards reduced both the property and business assessment of the subject property based on similar manufacturing-purpose arguments.

Respondent's Position:

[16] The Respondent argued that the subject is properly assessed as suburban office having regard to the property's *typical use* rather than the building's *current use*. In other words, the Respondent argued that the market would view this building as a suburban office building, considering the design, layout, and consistent level of finish throughout.

[17] The Respondent submitted that the racking systems, while expansive and intricate, are nevertheless not automated, the way the neighbouring warehouse (owned by the same company as the subject property for the manufacture and distribution of uniforms) has automated its racking systems.

[18] The Respondent submitted 67 pages of interior and exterior photos of the subject in support of his argument that the quality, finish, and characteristics of the property (ceiling height, flooring, dropdown suspended ceiling, climate control, and open cubicles) reflect a concept of suburban office space, which is how the market would view the building.

[19] The Respondent also submitted an excerpt from *The Appraisal of Real Estate*, Third Canadian Edition manual, which notes that: "Real property has both a use value and a market value, which may be the same or different, depending on the property and the market." The Respondent argued that in this case, the subject's *current use* is the result of a managerial choice, which does not negate the *market value* reflected in the quality, finish, and characteristics of the building.

[20] The Respondent submitted CARB 72263P-2013 and CARB 1390/2010-P, both of which conclude that the occupant or *current use* of a space does not necessarily determine the *type* of space.

BOARD'S FINDINGS AND REASONS:

[21] The Board finds that the correct sub-property use for the subject is the requested suburban office warehouse (CS1835) designation, based primarily on the preponderance of pictorial evidence substantiating the manufacturing nature of operations in the building.

[22] On the evidence presented (including floor plans, interior and exterior photos, and detailed submissions respecting the nature of business operations within the building), the Board is satisfied that a prospective purchaser in the market for a suburban office property would not view this building as *typical* commercial office space.

[23] The cost and effort alone of modifying the physical condition and characteristics of this property from its current use to a use that would suit a *typical* commercial office operation would be significant, if not prohibitive.

[24] The Board finds that section 289(2)(a) of the *Act* definitively instructs this panel to consider whether the subject assessment reflects the characteristics and physical condition of the property as of December 31, 2013. The Board is of the opinion that it does not.

[25] In the judgment of this Board, the characteristics and physical condition of the subject building reflect a concept of suburban office warehouse, with both parties conceding to the approximate 75/25 per cent breakdown of manufacturing space versus commercial office space in the property.

Conclusion:

[26] Thus, the Board finds that the best indicator of market value for the subject property is derived by applying suburban office warehouse income parameters (\$12 psf rental rate, 7% cap rate, 1% vacancy rate, \$6.00 operating costs, and 1% non-recoverable) to the subject's assessable area of 44,580 sf, resulting in a truncated value of \$7,450,000.

Board's Decision:

[27] For reasons outlined herein, the Board varies the subject assessment from \$8,400,000 down to a truncated value of **\$7,450,000**.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF September 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. R2	Respondent's 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 Administrative Use Only – Roll Number 090088808

Municipal Government Board Use Only: Decision Identifier Codes				
Municipality/Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary CARB	Office	Low Rise	Income	Net Market Rent/Lease Rate