



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:

***PARK AVENUE FURNITURE CORPORATION
(as represented by A. Sunderji), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***E. K. Williams, PRESIDING OFFICER
B. Bickford, BOARD MEMBER
Y. Nesry, BOARD MEMBER***

This is a complaint to the Calgary Assessment Review 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: 097018709

LOCATION ADDRESS: 5811 46 ST SE

FILE NUMBER: 76304

ASSESSMENT: \$30,110,000

This complaint was heard on 3rd day of July, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, and Boardroom 10.

Appeared on behalf of the Complainant:

- A. Sunderji Complainant

Appeared on behalf of the Respondent:

- D. Gioia Assessor, The City of Calgary
- I. McDermott Assessor, The City of Calgary

Board's Decision in Respect of Procedural or Jurisdictional Matters:

- [1] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[2] The subject property at 5811 46 ST SE is a 346,236 square foot (SF) building classified as an Industrial Warehouse 3 or more units (IW M) on a 14.41 acre parcel of land with a 1997 year of construction (yoc), a Property Use: Industrial and Subproperty Use: IN0701, assigned a Land Use of Industrial-General (I-G) in the Foothills 2 region.

[3] The assessment was prepared on the Sales Comparison Approach and was assessed at \$86.99 psf.

Issues:

[4] The assessed value of the subject property is not reflective of the market value of comparable properties.

Complainant's Requested Value: \$20,120,000 [\$58.17 per square foot (psf)].

Board's Decision:

- [5] The assessment is reduced to \$23,890,000 (\$69.00psf)

Legislative Authority, Requirements and Considerations:

[6] The Act Section 293 Duties of Assessors 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.*

[7] Matters Relating to Assessment and Taxation Regulation (MRAT) Part 1 Standards of Assessment Section 2 Mass Appraisal requires that:

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.*

and Section 4 Valuation standards for a parcel of land requires

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

[8] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[9] The Complainant's evidence package included a profile and photographs of the subject property, table of sales comparables supported by transaction documentation from Colliers International.

[10] The Respondent's evidence package included a Summary of Testimonial Evidence, a map and photographs of the interior and exterior of the subject property, the 2014 Assessment Explanation Supplement Industrial, documentation related to repeated requests for the Assessment Request For Information (ARFI), a table of sales comparables including supporting documentation, and Calgary Assessment Review Board decisions.

[11] Both parties placed technical and professional reports and excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of the document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[12] As noted above, the Respondent placed before this Board an Assessment Review Board decision in support of their position. This decision was made in respect of issues and evidence that may however be dissimilar to that before this Board.

Complainant's Position:

[13] The Complainant testified that the 346,263SF property was originally constructed as a manufacturing/distribution building for a single user. However, due to financial challenges the area required to support the single user business has been reduced to 166,153 SF with the balance of the space leased out creating a multi-tenant building. Currently 273,327SF is leased to five tenants including the original single user. There is 91,673SF available for lease and 4,941SF is non-leasable space.

[14] The subject property was constructed as a single tenant building which is now functioning as a multi-tenant building without being renovated to a multi-tenant building. The photographs and floor plans (Exhibit 1 of Exhibit C2) presented details on the layout within the existing single tenant building to accommodate the leasing of space.

[15] The Complainant included (pages 7 and 8 Exhibit 1 of Exhibit C2) an email from Colliers International Canada (Colliers) which outlined the positives and negatives of the subject property from a leasing perspective. The email concluded that the subject property is difficult to market as this is not a typical multi-tenant building. The necessary renovations that are typical in a multi-tenant building such as demising walls and separate service areas such as washrooms for each tenant were not completed.

[16] In support of the requested assessment the Complainant presented their analysis of six sales comparables (page 4 Exhibit C1) as well as an income valuation (page 9 Exhibit C1) based on the tenants currently in the building.

[17] The sales comparison table (page 4 Exhibit C1) presented particulars on six properties. Following further review the Complainant reduced the sample to four comparables. The comparable at 4500 47 ST SE was excluded as this property was sold in 2013 as a sale lease back. The profile of the remaining four comparables is as follows:

- 1) All are located in the SE quadrant
- 2) Building area – one building reported an area of 760,603SF while the other 3 ranged from 201,415 to 262,700 SF;
- 3) YOC ranged from 1977 to 2003;
- 4) Sale dates occurred in the period November 2010 to July 2013; and

the unadjusted sale prices ranged from \$32.74psf to \$71.43psf with a median of \$61.85psf and a mean of \$56.97psf.

[18] In respect of the income valuation the Complainant presented an analysis titled February 2014 – Calgary Property Income in Place Investor Valuation (page 9 Exhibit C1). The analysis was prepared by the Complainant based on the:

- 1) current leased SF which ranged from 13,958SF to 44,320SF;
- 2) current lease income which ranged from \$7.74psf to \$14.00psf;
- 3) their own building adjustments for Vacancy Allowance and Operating costs, and
- 4) Cap Rate of 6.50% based on a Q4 2013 Colliers Cap Rate Report.

Their analysis yielded a value of \$20,487,285. Supporting documentation for the current leases, profile of the tenant space and other documents were provided in Exhibits 1 and 3 of Exhibit C2.

[19] In reply to the Respondent's evidence (pages 41 to 62 Exhibit R1), that the Complainant

has not responded to frequent requests to provide the required ARFI for 2012 and 2013, the Complainant submitted lease and financial information in attachments Exhibits 4 and 5 to Rebuttal Exhibit C2. The Board noted that the non-filing of the ARFI when originally requested and frequent reminders is not in compliance with the Act section 295(1). Further Exhibits 4 and 5 were considered by the Board to be new evidence and were excluded as evidence in respect of the matter currently before the Board.

[20] In summary the Complainant acknowledged that the sales comparison is the best approach to determine the assessed value. The Investor Valuation outlined in paragraph [18] in the view of the Complainant is a "back-up" which supports the requested assessment of \$20,120,000 (\$58.17psf).

Respondent's Position:

[21] The Respondent presented an analysis of 4 sale comparables (page 92 Exhibit R1) in support of the assessment. The profile of the sample is as follows:

- 1) 2 IW M and 2 IW S (industrial warehouses with 2 or less tenants);
- 2) 2 in the SE quadrant and 2 in the NE quadrant;
- 3) building area ranged from 110,944 to 179,418SF;
- 4) yoc are 1972, 1977, 1997 and 2000;
- 5) sales dates were in 2011; and

the Time Adjusted Sale Price (TASP) ranged from \$73.57psf to \$119.33psf with a median of \$94.84psf and an average (mean) of \$95.64psf.

[22] In respect of the Complainant's Income Approach the Respondent prepared an Income Approach based on the Respondent's analysis of market lease rates for leased areas similar to the Complainant's tenant profile, assumed the current vacancy space was leased, vacancy at 25% and a cap rate of 6.50%. This analysis yielded a property value of \$29,631,895.

[23] In summary the Respondent argued that the analysis of their sales comparables supports the assessment. The income approach prepared by the Respondent is a back-up for the sales comparables.

Board's Reasons for Decision:

[24] Although both parties presented support for their positions based on an analysis of sales comparables as well as their own analysis based on income parameters they agreed that the sales comparison is the best approach to determine value for the subject property.

[25] Based on a review of the evidence the Board has concluded that the subject property was originally constructed as a single tenant building for the owner's sole use as a manufacturing/distribution facility. Due to financial and economic challenges faced by the owner of the business it was necessary that this single tenant building now functions as a multi-tenant building. This change was initiated without the building being renovated to a multi-tenant building. The building has wide open clear space with no demising walls.

[26] In support of their respective positions the Complainant provided a sample of 6 properties and the Respondent a sample of 4 properties. A review of the 10 properties determined that the Complainant's comparable at 4500 47 ST SE sold twice in 18 months and is

reported by Colliers International Sales Transaction particulars as a sale lease back and on that basis should be excluded from further analysis.

[27] The remaining 8 comparables is a diverse sample of industrial warehouses. Specifically:

- 1) a mixture of IW S and IW M building types;
- 2) 2 located in the NE quadrant and 6 in the SE quadrant;
- 3) yoc ranged from 1972 to 2003
- 4) Assessable building areas ranging from 110,944SF to 760,603SF;
- 5) Sale dates from November 2010 to July 2013;
- 6) Sale prices ranged from \$8,600,000 to \$45,850,000;
- 7) 4 were reported with the TASP and 4 were reported with the unadjusted sale price

[28] The Board was of the view that although the sample was diverse the sample of 8 comparables was reflective of the market for the subject property. As indicated in paragraph [27] there was a lack of consistency in the treatment of the sale price. As the Board did not have details on the factors required to calculate the TASP the Board used the unadjusted sale prices which were available for the 8 comparables. The unadjusted sale prices ranged from \$32.74psf to \$106.42psf with a median of \$ 69.00psf and an average of \$71.77psf.

[29] A review of the evidence and testimony presented determined the comparables were reflective of the market for the subject property. Based on the median sale price of \$69.00psf the Board, therefore, reduces the assessment to \$23,890,000.

DATED AT THE CITY OF CALGARY THIS 14th DAY OF August 2014.



E. K. Williams

Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
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.*

ADMINISTRATIVE USE

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	WAREHOUSE	MULTI TENANT	SALES APPROACH	COMPARABLES