CITY OF LETHBRIDGE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS

CARB – 0203-0006/2010

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Campbell Potts - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

- Mike Vercillo, Presiding Officer
- Kent Perry, Member
- Jason Hunt, Member

A hearing was held on Tuesday, August 17, 2010 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

Roll No./ Property Identifier	Assessed Value	Owner
4-1-360-0236-0001 1061LK;E;4,5	$1,983,000	983353 Alberta Ltd

Appeared on behalf of the Complainant:

- Campbell Potts
- Lindsay Potts

Appeared on behalf of the Respondent:

- Verle Blazek
- Lance Wehlage

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject is a large industrial property, built in 1973 and located at 236 36th Street North, Lethbridge. The building has a total assessable area of approximately 29,317 square feet (SF) of main floor space and 7,186 SF of mezzanine space. The building is situated on an assessable land area of approximately 156,563 SF resulting in an approximate 19% site coverage.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make decisions under Part 11 of the Act. During the course of the hearing, the parties raised the following procedural issue, which is addressed below.

Preliminary issue 1: The complaint form indicated that information requested from the municipality pursuant to sections 299 or 300 of the Municipal Government Act was **not** received.

During questioning by the CARB on this preliminary issue, the Complainant revealed that this is now not an issue and the CARB proceeded to hear the merits of the complaint, as outlined below.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised are as follows:

Issue 1: The assessed value of the subject is too high based on increases to the assessed values of other industrial properties in comparison to the subject.

Issue 2: The assessed value of the property is too high based on an October 16, 2008 appraisal of the subject appraised at $1,700,000. The Complainant requests that the assessment should be revised to this appraised value.

ISSUE 1: The assessed value of the subject is too high based on increases to the assessed values of other industrial properties in comparison to the subject.

The Complainant provided the following evidence with respect to this issue:

- A "Comparison of Taxes" table and graph showing assessment increases from 2008 to 2010 for the subject and three other industrial properties. The table showed:

   - That the subject's assessed value increased by 24% from 2008 to 2009, while the three other industrial properties increased between 17% and 24%.
   - That the subject's assessed value increased by 11% from 2009 to 2010, while the three other industrial properties decreased by a negligible percentage.
- An October 16, 2008 appraisal of 332 36th Street North, Lethbridge. This property, included in the "Comparison of Taxes" table described above, was appraised at $1,230,000 with an appraisal date of September 30, 2008. The 2009 assessment of the property was $1,281,200.

The Respondent provided no evidence with respect to this issue. However, during questioning by the CARB, revealed that that two of the properties were much newer (including the property referenced above at 332 36th Street North, Lethbridge) and that the Respondent had better lease rate information for those properties over the last few years in comparison to the subject. Therefore, from an assessment perspective, those properties lease rates had stabilized while the subject's lease rates were increasing.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1: That the comparison of three industrial properties assessment increases to the subject over the last three years, does little, if anything to dispute that the 2010 assessment of the subject property is too high. While it may suggest that the assessment increases ascribed to the subject over the last few years are inequitable, in that the subject has incurred a higher percentage of assessment increases than the three other industrial properties, it may also suggest that the three other industrial properties may have been inequitably assessed in comparison to the subject in the two prior years as well. This would also account for the smaller percentage assessment increases to the other industrial properties. In any event, and in this case, the argument that the subject's 2010 assessed value is too high based on inequitable assessment increases to three other industrial properties has little merit.

ISSUE 2: The assessed value of the property is too high based on an October 16, 2008 appraisal of the subject appraised at $1,700,000. The Complainant requests that the assessment should be revised to this appraised value.

The Complainant provided the following evidence with respect to this issue:

- A copy of an October, 2008 appraisal of the subject property performed by Nancy Hosack and Laurier Kramps of Reliance Appraisal Consultants Ltd. During questioning, the Complainant revealed that the purpose of the appraisal was to establish a value for the subject as a result of divorce proceedings. Two approaches to value the subject were used in the appraisal; the Direct

Comparison approach and the Income Capitalization approach. In using the Income Capitalization, the author capitalized an "annual net operating income" of $160,239, using a capitalization rate (cap rate) of 9.75%, to arrive at an indicated value of $1,643,000 for the subject. This indicated value was further reduced by $18,000, which represents the present value of the "uneconomic" rents experienced by the subject at the time of the appraisal. The net value established by the Income Approach to value was $1,625,000. In the Direct Comparison Approach, the author ascribed a value of $40.00 per main floor SF for the building based on comparable 2008 building sales and $165,000 per acre of land based on comparable 2007 and 2008 land sales. The resulting value indicated was $1,749,000 for the land and building of the subject. In reconciling the two aforementioned approaches to value, the author arrived at a final value of $1,700,000 for the subject as at September 30, 2008.

- A copy of a June 29, 2010 letter from Avison Young giving an opinion of value of $1,800,000 for the subject property as at the date of the letter.

The Respondent provided the following evidence with respect to this issue:

- A short summary of his income approach to assessing value to the subject, by capitalizing a net operating income of $163,601 using a cap rate of 8.25% to arrive at an assessed value of $1,983,000 for the subject. The Respondent explained that the main difference between his income approach and that of the Appraiser is the cap rate. In support of his cap rate, the Respondent provided approximately 148 sales of various properties from 1994 to 2010 and resulting cap rates. In graphical form, he shows cap rates have been declining in Lethbridge from almost 12.0% in 2004 to just less than 8% in 2010. In a second graph, the Respondent indicates that cap rates have stabilized to just less than 8% from 2007 to 2009. During his presentation the Respondent stated that he has been using an 8.25% cap rate for buildings older than 15 years and similar to the subject. During questioning from the CARB the Respondent revealed that for the current assessment year, he had been using a:
  - 7.50% cap rate for properties 1 to 4 years old
  - 7.75% cap rate for properties 5 to 9 years old
  - 8.00% cap rate for properties 10 to 14 years old
  - 8.25% cap rate for properties over 15 years old
- In support of the diminishing cap rate trend, the Respondent provided a study entitled "a Structural Model for Capitalization Rate". The Respondent highlighted that the study pointed to a high correlation between cap rates and 10-year bond rates. He then included a U.S. 10 year bond graph showing a continual and sustained drop in 10-year bond rates from 1980 to 2010. For example the 10-year bond rate was approximately 4.5% in 2004 and declined to approximately 3.5% in 2010. He concluded that this supports the declining trend of the cap rates indicated in the previous point above.
- The Respondent also countered the appraisal evidence supplied by the Complainant offering possible explanations for the higher cap rate used by the

Appraiser. In the Appraiser's cap rate analysis the Respondent noted that in 2 of the 5 "Industrial Property Sales - Capitalization Rates", the properties were vacant or predominately vacant at the time of sale, and therefore an actual cap rate could not be determined. In the other 3 industrial property sales, the Respondent's figures differed significantly from the Appraiser's with respect to cap rate derivation due to differing sales price or income variables. These differences resulted in cap rates as much as 2% lower according to the Respondents figures.

- The Respondent also provided a chart of sales of buildings comparable to the subject that sold in 2007 and 2008. The CARB noted that 4 of the 5 sales comparisons used by the Appraiser in her Direct Comparison approach were included in the Respondent's chart. The chart indicated that the sales price per main floor SF for each comparable ranged from $51.65 to $98.87 with an average of $59.78. The subject is currently assessed at $59.56 per main floor SF not including the mezzanine space.

Decision: Issue 2

In view of the above considerations, the CARB finds as follows with respect to Issue 2: The Complainant's appraised value of $1,700,000.00 offers an opinion of value for the subject as at September 30, 2008; however, it fails to prove that the assessed value of $1,983,000 with a valuation date of July 1, 2009 is not representative of market value, fair or equitable. The CARB provides the following reasons for this finding.

1) The CARB accepts the evidence presented by the Respondent that some of the cap rates derived by the appraiser may not be derived from actual figures, because they may have been derived from incomes of buildings that were vacant or predominately vacant at the time of sale. In addition, during questioning, significant doubt was cast by the Respondent as to the accuracy of the Appraiser's figures in the derivation of her cap rates. T**he author of the Appraisal was not present and therefore could not dispute, counter nor support her findings.**
2) The CARB accepts that the Respondent has used a cap rate of 8.25% for all properties similar to the subject and that are older than 15 years, as in the case of the subject. Therefore, using a higher cap rate for the subject would be unfair or inequitable to other similarly assessed and comparable properties.
3) The assessed value of the subject per main floor SF is fair and equitable when compared sales price per main floor SF of comparable industrial properties.

PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows.

Roll No./Property Identifier	Value as set by the CARB	Owner
4-1-360-0236-0001 1061LK;E;4,5	$1,983,000	983353 Alberta Ltd

It is so ordered.

Dated at the City of Lethbridge, in the Province of Alberta, this 27th day of August, 2010.

Presiding Officer