

Decision #CARB 0262-491/2012

Complaint ID #491

Roll #3312260

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: 2012 AUGUST 23

PRESIDING OFFICER: M. CHILIBECK

BOARD MEMBER: R. SCHALLER

BOARD MEMBER: V. KEELER

BOARD CLERK: S. PARSONS

BETWEEN:

MacBain Properties Ltd.
Represented by: Altus Group Limited

Complainant

and

The City of Red Deer

Respondent

[1] This is a complaint to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by the Assessor of the City of Red and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	3312260
MUNICIPAL ADDRESS:	4100 – 77 STREET
ID Number:	491
ASSESSMENT:	\$14,800,900

[2] This complaint was heard by the Composite Assessment Review Board (Board) on 23rd day of August, 2012 in the Council Chambers of City Hall in The City of Red Deer.

[3] Appeared on behalf of the Complainant:

- D. Porteous, representative of the Altus Group Limited

[4] Appeared on behalf of the Respondent:

- R. Kotchon, property assessor of The City of Red Deer
- A. Meckling, property assessor of The City of Red Deer

JURISDICTION

[5] The Central Alberta Regional Assessment Review Board has been established in accordance with section 456 of the *Municipal Government Act R.S.A. 2000, ch M-26* (hereinafter, "the MGA") and the *City of Red Deer Assessment Review Board Bylaw 3441/2009*.

[6] Neither party raised an objection to any Board member hearing the complaint.

[7] No procedural or jurisdictional matters were raised by either party.

PRELIMINARY MATTER

[8] No preliminary matters were raised by either party.

PROPERTY DESCRIPTION

[9] The subject property is an industrial facility used to provide coiled tubing and nitrogen operations to the oilfield industry. The subject consists of a parcel of land with 16.63 acres and the following improvements; a main building that houses offices and twelve drive-through maintenance bays with 39,427 square feet of area, a four bay wash building with 16,263 square feet, yard paving and fencing all of which were constructed in 2007. A nitrogen tank was added in 2011. The subject is located in Riverside Heavy Industrial Neighborhood in northeast Red Deer.

BACKGROUND

[10] The subject property is assessed by using the depreciated replacement cost method. The land component is valued at base market value rate of \$275,000 per acre and adjusted for size and site development. The improvements are valued at replacement cost using the Marshall & Swift cost manual.

[11] The Complainant accepts the depreciated replacement cost method of valuing the subject property however, disputes the land valuation, the main building valuation and the inclusion of GST (Federal Goods & Services Tax) in the valuations of the improvements.

COMPLAINANT'S REQUESTED VALUE:

Primary request – includes removal of GST (Amended at the hearing to include a nitrogen tank)	\$11,276,500
Alternate request – includes GST (Amended at the hearing to include a nitrogen tank)	\$11,640,800

ISSUES

[12] The complainant identified several matters on the Assessment Review Board Complaint and attached a list outlining several grounds for the complaint. At the hearing the Complainant advised that the matter of an assessment amount is under complaint and identified the following issues.

1. The land value should be reduced by removing the site development adjustment.
2. The main building should be valued as a code 494 building (per Marshall & Swift) rather than a code 495.
3. The GST component in the improvement valuations should be removed.

BOARD'S FINDINGS IN RESPECT OF EACH ISSUE

1. Land Value

[13] The land is valued at a base market rate of \$275,000 per acre and adjusted for size at -10% and for site development at +15% which results in the assessed value of \$4,801,900.

[14] The Complainant disputes the adjustment for site development.

Complainant

[15] The Complainant argued that the site development costs incurred by the assessed owner and included in the land value (\$685,988) is of value to the property owner but would not be realized in the market place and therefore should be removed from the assessment.

[16] Two previous CARB decisions, 0262-123/2010 and 0262-264/2011, on the subject property were referenced by the Complainant and provided in evidence in support for the requested land value reduction. The 2010 decision removed a 30% adjustment for topography and landscaping and the 2011 decision varied the assessment based on both parties having agreed to a reduced assessment in consideration of the 2010 CARB decision wherein both parties agreed to a positive (+) 15% adjustment for site development.

Respondent

[17] The Respondent provided a cost breakdown of land costs from information received from the property owner showing that \$5,998,353 was incurred. The costs included the purchase price, demolition costs, site grading and site/development. This contrasts with the Respondent's valuation of the land of \$4,801,900 which includes the base value, negative size adjustment and positive development adjustment.

[18] A consulting report prepared for the Respondent and provided in evidence concluded that the market value of vacant industrial land developed with heavy duty bearing standard (HDBS), such as the subject, would command 85% to 90% of the cost to upgrade to HDBS in addition to the market value of the raw serviced land. The Respondent asserted that if this methodology was used to value the subject land, the result indicates a land value of \$6,938,829.

[19] A recent industrial land sale in Edgar Industrial, in northwest Red Deer, was referenced and provided in evidence in support of the assertion that vendors recover the cost of site development. The property sale report notes that the "land has had the following preparations: filter cloth, 3' of pit run, 1' gravel, \$70,000 invested in site prep". Also an email reply from a realtor was provided that indicates "...to some degree it made it more saleable (quicker) and to some degree it brought more money."

Board Finding

[20] The Board is not bound by previous decisions however it may find them persuasive depending on the issues and the related evidence. In this case the Board has received argument and evidence that was not provided at the two previous hearings. The Board is persuaded by the Respondent's consultant report and Edgar sale to accept that a portion of site development costs are recognized and realized in the market place. The reference to the consultants report was not challenged by the Complainant and no evidence was provided to refute the consultant's conclusion. The Complainant relied primarily on the two previous decisions however; the Board also finds the 2011 decision persuasive wherein the Complainant accepted the 15% site development adjustment. The Board finds the Complainant did not provide any new evidence in this case to support the requested change in the land valuation.

2. Main Building Valuation

Complainant

[21] The Complainant argued that the replacement value of the subject building should be determined by using the Marshall & Swift building code 494 (Industrial Light Manufacturing) rather than building code 495 (Heavy Industrial Manufacturing). The subject building is used for the repair and maintenance of tractors and trailers loaded with coil tubing and nitrogen equipment and does not meet the Marshall & Swift code 495 description but meets the code 494 description.

[22] Two comparable properties (one from Town of Edson and one from County of Grande Prairie), that are owned by the assessed owner of the subject property, were provided by the Complainant in evidence claiming that the comparables are similar to the subject in size, age and functionality and are coded as light manufacturing buildings.

Respondent

[23] The Respondent argued the Marshall & Swift building code descriptions are general in nature and are best supported by actual construction costs. The Respondent provided a cost breakdown for the main building showing the cost to be \$9,406,263 versus the assessed value of \$7,507,389 or 80% of actual cost. The Respondent asserted this comparison supports the use of code 495. If code 494 is used as asserted by the Complainant (\$4,793,525), the assessed value would be 50% of the actual costs.

[24] The Respondent referenced the two previous decisions that dealt with the same matter and issues that resulted in the Board deciding that the Marshall & Swift code 495 was appropriate and therefore confirming the valuation of the subject building.

Board Finding

[25] The Board placed little weight on the two comparables provided by the Complainant. These comparables are in a different municipality and the Board was told by the Respondent that there are comparable properties in The City of Red Deer. Also, the Complainant provided a Summary for each of the two comparables and the Board finds the improvement description (coding) is notably different than the subject's. As explained by the Respondent, the valuation of the comparables is made by using a different cost manual than was used for the subject, hence the different coding. Although the comparables are of similar utility and size as the subject and notably valued much less than the subject, no detailed information was provided by the Complainant to explain the reason for the significant differences in the valuations.

[26] However, the Board is directed by section 467, subsection (3) of the Municipal Government Act (MGA) that it must not alter any assessment that is fair and equitable to the assessments of similar property in the same municipality. The Board interprets this section of the MGA to mean that the Board must consider the assessments of similar property in the same municipality; it is not required to consider the assessments of similar property in another municipality. Also, this Board, as established pursuant to section 456 of the MGA, has jurisdiction in those municipalities that agreed to jointly establish this Board, it does not have jurisdiction to make decisions on the matter of an assessment in either of the two municipalities from which the comparables were provided. The Board sees no need to consider assessment comparables from another municipality when comparables are available within the subject municipality.

[27] The Board is convinced by the Respondent's argument supported by the actual construction costs that the Marshall & Swift building code 495 is correct. The use of code 495 produces a valuation that is much closer to the actual construction costs than the code 494 asserted by the Complainant. The Board finds the Complainant provided no new or additional information in this hearing versus that provided in the hearing that resulted in Decision 0262-123/2010. This decision is the third decision on the subject confirming the valuation of the subject building.

3. GST

Complainant

[28] The Complainant asserted that an amount equivalent to the GST (5%) should be removed from the replacement cost calculations for all of the improvements on the subject property. GST is included in the local multipliers that are used to convert Marshall & Swift costs to specific localities for Canada. This was supported by an excerpt from Marshall Valuation Service.

Respondent

[29] The respondent asserted that GST is not excluded from calculating the replacement cost of an improvement when the Marshall & Swift cost manual is used.

Board Finding

[30] The Board was not provided with any evidence by the Complainant to support the assertion that GST should be removed from the Marshall & Swift cost calculations. The evidence provided

by the Respondent by way of the Project Cost Breakdown from the property owner shows an amount for GST was incurred. The Marshall & Swift cost manual defines replacement cost is the total cost of construction required to replace the subject building and "these costs include labour, materials, supervision, contractors profit and overhead, architects' plans and specifications, sales taxes and insurance." The Board finds the reference to sales tax supports the inclusion of GST in the replacement cost of buildings.

[31] In the absence of evidence and supporting argument to the contrary, the Board is not persuaded to exclude an amount for GST as asserted by the Complainant.

SUMMARY

[32] During the hearing the Respondent brought the Complainant's and Board's attention to the fact that the Complainant's requested calculations did not include the valuation of a nitrogen tank of \$101,400. It appears that the Industrial Details sheet that shows the valuation details for the nitrogen tank was not provided to the Complainant. Also the Board finds that no reference was made to the nitrogen tank on the Summary Report as provided by the Complainant and the Respondent. This report identifies the components of the property that are assessed; market land valuation, main building, wash bay, paving and fencing. The Board would expect the nitrogen tank to be mentioned on the summary report because it is valued as an improvement separate and apart from the other improvements. Upon being questioned by the Board, both parties acknowledged and verified that the value for the tank was included in the total assessment under complaint. The Complainant acknowledged and agreed to amend the requested valuations accordingly.

DECISION

[33] For the reasons noted above the assessed value of the subject property is CONFIRMED as follows:

Roll # 33112260

\$14,800,900.

[34] Dated at The City of Red deer, in the Province of Alberta this 20 day of September, 2012 and signed by the Presiding Officer on behalf of all three panel members who agree with this decision.



M. Chilibeck,
Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX "A"

Documents Presented at the Hearing
And considered by the Board

<u>NO.</u>	<u>ITEM</u>
1. C1	Complainant's Disclosure of Evidence
2. R1	Respondent's Disclosure of Evidence

FOR MGB ADMINISTRATIVE USE ONLY

Decision No. 0262-491/2012		Roll No. 3312260		
<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Industrial Warehouse	Single Tenant	Cost Approach	-land value -improvement value -GST