

Decision# CARB 0263-513/2012

Complaint ID# 513

Roll 678015006

CENTRAL ALBERTA REGIONAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: OCTOBER 17, 2012

PRESIDING OFFICER: R. MOWBREY

BOARD MEMBER: V. KEELER

BOARD MEMBER: R. SCHALLER

BOARD CLERK: S. PARSONS

BETWEEN:

Costco Wholesale Corp.
Represented by: Altus Group

Complainant

-and-

Red Deer County

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 Red Deer County and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	678015006
MUNICIPAL ADDRESS:	162 37400 HWY 2
ASSESSMENT	\$17,026,190

[2] The complaint was heard by the Composite Assessment Review Board (Board) on the 17th day of October, 2012, in the Council Chambers of Red Deer County.

[3] Appeared on behalf of the Complainant:

- David Porteous, Agent – Altus Group

[4] Appeared on behalf of the Respondent:

- Gert Vande Bunte, Assessor – Red Deer County
- Brigitte Boomer, Assessor – Red Deer County

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").

PRELIMINARY AND PROCEDURAL MATTERS

[6] The following Preliminary Matter was brought forth: After introductions and prior to the Complainant giving evidence, the Complainant requested a meeting with the Respondent. The request was granted and a 10 minute meeting ensued. After the meeting, the Board was advised that size was an issue and there was not agreement with the parties.

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

[8] Just prior to the close of the hearing, the Presiding Officer, asked the two parties if this concludes their presentation and do they feel they had received a fair hearing and both answered in the affirmative. The Presiding Officer then adjourned the hearing and advised the parties that a written decision should be issued within thirty days.

BACKGROUND

[9] The subject property is, by far, the largest non-residential building in Red Deer County located on the SW corner of the City of Red Deer boundary in the Gasoline Alley Business Park. The subject property is a 141,930 square foot warehouse type building that includes both a fuel court and a liquor store. The 2012 assessment was valued on the cost approach, utilizing Marshall and Swift Details, and the assessment is for \$17,026,190.

ISSUES

[10] The Board determined the following issues:

1. What is the market value of the subject property?

1. Market Value

Complainant's Position

[11] The Complainant filed this complaint on the basis that the subject property assessment of \$17,206,190 was inequitable and in excess of market value. In support of this position, the Complainant presented a 381 page evidence package to the Board marked as Exhibit C-1.

[12] The Complainant advised the Board that the assessment is in excess of market value as the Respondent valued the subject property on the Cost Approach and not the preferred Income Approach. The Complainant noted that the Cost Approach has inflated the value of the subject property beyond its market value. The Complainant advised the Board that a number of CARB decisions support the point of the market value standard (Exhibit C-1 page 8).

[13] The Complainant stated that the application of the Income Approach should incorporate the variable parameter consistent with the long term vacancy allowance, vacancy shortfall, and non-recoverable allowance used to calculate the capitalization rate for this property based on recent market sales of a similar nature. The Complainant advised the Board that based on the Income Approach, using an \$8.00 per square lease rate, an 8.25% capitalization rate the subject property should be assessed at \$13,849,100 as of the legislated valuation date of July 1st, 2011 (Exhibit C-1 pages 8, 9 and 307).

[14] The Complainant provided the Board with assessment details, photographs and maps of the subject property (Exhibit C-1 pages 11, 12, and 17-22).

[15] The Complainant provided the Board with an ECARB decision marked as NO. 0098 816/11. The Complainant referred to a number of highlighted excerpts in the decision as follows:

a) the Board is of the position that the overall assessment, including the supplementary assessment, must reflect the values of similar properties where the values have been determined using appropriate approaches to value. The assessment must be a reflection of market value as defined in MGA s 1(1)(n) that states: "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if sold on the open market by a willing seller to a willing buyer.

b) the Board is persuaded by the Complainant's argument that utilizing a cost approach for the subject because it is under construction and ending up with an assessment that is much higher than those of completed similar properties using the same parameters, is contrary to Matters Relating to Assessment and Taxation Regulation 220/2004 section 2(c) that states: An assessment of property based on market value must reflect typical market conditions for properties similar to that property.

c) if the cost approach results in an assessment which is widely at variance with assessments of similar properties using, in this case, the income approach, then the Board must question whether the cost approach was "correctly applied". Whatever approach to value is utilized, the resulting assessment must reflect typical market conditions for properties similar to that property (Exhibit C-1 page 34).

[16] The Complainant provided the Board with eight lease rate details for anchor tenants with space over 80,000 square feet. The median space leased by the eight anchor tenants was 117,552 square feet and the net rent was \$7.61 per square foot (psf). The mean space leased by the eight anchor tenants was 116,983 square feet and the face rent was \$7.84 psf (Exhibit C-1 page 52).

[17] The Complainant provided the Board with six equity comparables for anchor tenants with space over 80,000 square feet. The median space occupied by the six equity comparables was 132,874 square feet and the lease rate psf was \$7.00. The mean space occupied by the six equity comparables was 137,709 square feet and the lease rate psf was \$7.33 (Exhibit C-1 page 179).

[18] During cross-examination of the Complainant by the Board, the Complainant stated that no market research was completed in Red Deer or Red Deer County.

[19] During argument and summation, the Complainant stated the subject property's assessment should be based on the Income Approach and not the Cost approach. The Complainant has provided income analysis and cap rates to support the Income Approach.

[20] In addition, the Complainant said it was unfortunate that the parties did not agree on the size dispute. The Complainant further stated that the Complainant believed that the commercial inventory in Calgary was similar to the commercial inventory in Red Deer County.

Respondent's Position

[21] In defending its position, the Respondent provided a 23-page evidence package to the Board marked as Exhibit R-1.

[22] The Respondent provided the Board photographs, maps and drawings of the subject property (Exhibit R-1 pages 2-6).

[23] The Respondent advised the Board that although the Complainant is of the opinion that only one approach to value (Income) is acceptable, the County of Red Deer will demonstrate that using a different approach (Cost) to value leads to a fair and equitable assessment (Exhibit R-1 page 7).

[24] The Respondent advised the Board that property in Red Deer County is evaluated according to the provincial mandate of mass appraisal arriving at market value for properties including the subject. Red Deer County has a small business community in which most properties are owner occupied and not leased.

[25] The Respondent advised the Board that the County uses a Modified Cost Approach to Value for all non-residential properties in the County. Hence, the Modified Cost Approach to Value represents a homogeneous methodology across the entire market value of properties in the County.

[26] The Respondent notes that it is the Complainant's contention that the methodology used by the County is not necessarily wrong, but plainly unacceptable when determining market value for this type of property. The Respondent advised the Board that the Complainant's own evidence clearly speaks to the contrary, where under point "f" on page 8 of Exhibit C-1, of their submission, the ECARB questioned the Cost Approach only, "when the resulting value is widely at variance with assessments of similar properties. In addition, the ECARB states: "Whatever approach to value is utilized the resulting assessment must reflect typical market conditions for properties similar to that property". The Respondent stated the County will demonstrate that its value is not "widely at variance with assessments of similar properties" and that the value of the subject property reflects a value typical of similar properties (Exhibit R-1 page 9).

[27] The Respondent states that the Complainant argues that the use of the Cost Approach is inferior to the use of the Income Approach "as the subject is a typical warehouse and that there are many comparable properties that are valued on the Income Approach" (Exhibit R-1 page 10).

[28] The Respondent notes that Costco, located within Red Deer County is unique in size and the nature of business to the municipality; and hence, there are no comparable properties that can be used in the Income Approach.

[29] The Respondent further notes that the CARB decision 0638/2010-P states; "the CARB will not make a determination as to which value method should or should not be used in any particular case, it is the final value that is the subject of adjudication, regardless of how the value is derived". (Exhibit C-1 page 47).

[30] The Respondent advised the Board that the Complainant's evidence with respect to the use of the Cost Approach is not supported by the findings of the CARB. Neither can the Complainant's position be found in the Alberta Municipal Affairs "Guide to property assessment and taxation in Alberta", where on pages 10 and 11 the Guide states:

"There are three standardized approaches to determine the market-value-based assessment of a property. The three approaches for estimating market-value-based assessments are: the sales comparison approach; the cost approach; and the income approach. One or more of these approaches are used to arrive at a property's assessed value using the market-value-based standard" (Exhibit R-1 page 10).

[31] The Respondent provided the Board with a chart showing four assessments of Costco stores in similar municipalities. The Respondent stated all four comparables had a fuel court and a liquor store, which is similar to the subject property. The four comparables has a mean size of 144,427 square feet, a mean assessment of \$17,428,880 and a mean value psf of \$120.23. The subject property assessment compares favourably with the four comparables with a mean size of 141,930 square feet, a mean assessment of \$17,063,534 and a mean value psf of \$119.96 for the subject property (Exhibit R-1 page 11).

[32] The Respondent provided the Board with a chart showing assessments for three large buildings in the City of Red Deer. All three assessments were properties over 120,000 square feet, with a 7.25% cap rate and assessment dollar psf of \$140.66, \$164.33 and \$159.38. The Respondent stated that the store with the assessment at \$164.33 psf is the best comparable as that store had a liquor store and a fuel court (Exhibit R-1 page 12).

[33] The Respondent noted that the Complainant had submitted market data relative to shopping malls in the City of Calgary. While the Respondent agrees with the Complainant that the anchor tenants from the malls attract patrons as the Red Deer Costco does to the Gasoline Alley Business Park, the Respondent pointed out the irony is that the cap rate used by these malls are between 6.75%-7.5%, and this of course is nowhere near the proposed rate by the Complainant of 8.25% (Exhibit R-1 page 12).

[34] The Respondent advised the Board that the CARB decisions for Costco Deerfoot Meadows (2230-2011-P) and Costco Beacon Hill (2074-2011-P) where the rental rates of \$10.00 psf and a cap rate of 7.25% was upheld (Exhibit R-1 page 13).

[35] The Respondent advised the Board that by using the Complainant's lowest lease rate of \$10.00 psf and the highest cap rate of 7.5%, the resulting assessment for the Red Deer County Costco would be \$18,924,000 as opposed to the present \$17,026,190 (Exhibit R-1 page 13).

[36] During cross-examination by the Respondent regarding the Complainant's evidence, the Respondent asked the Complainant; why the Complainant's comparables were only from Calgary? The Complainant was unable to answer the question.

[37] During argument and summation, the Respondent stated:

- a) there is no demand or requirement to use any specific approach exclusively.
- b) the Complainant drew evidence from the City of Calgary and as such, has no bearing on the Red Deer area and therefore should not be given any weight.
- c) the evidence presented by the Complainant supports the County's position that the assessment is not too high.
- d) the value of the Red Deer County Costco compares favourably with the Costco stores in similar sized municipalities throughout the Province.
- e) the value of the Red Deer County Costco store also fits with assessments of similar sized non Costco stores in the City of Red Deer.

[38] In summation, the Respondent requested the Board to confirm the 2012 assessment of \$17,026,190 (Exhibit R-1 page 14).

Board's Finding

[39] The Board reviewed both the Complainant's argument and evidence and the Respondent's argument and evidence and determined the Respondent's argument and evidence was more compelling.

[40] The Board was persuaded by the Respondent's chart showing similar sized Costco stores throughout Alberta. The subject property compared very favourably to the other Costco assessment comparables. The Board further notes that the most similar Costco store to the subject in terms of size of the Municipality was Strathcona and that assessment psf was considerably higher than the assessment psf of the subject property.

[41] The Board was persuaded by the Respondent's chart showing the subject Costco store's assessment compared to large non-Costco stores in the City of Red Deer.

[42] The Board did not agree with the Complainant's assertion that the commercial inventory in Calgary was similar to the commercial inventory in Red Deer and Red Deer County. The Board does not agree that the properties are homogeneous between Calgary and Red Deer County. The geographical and demographical characteristics of Calgary and Red Deer County differ greatly and for this reason the Board put little weight on the Complainant's Calgary's comparables.

[43] The Board does agree with the Complainant that the Income Approach is a valid methodology for valuing properties, but notes that there are three methods than can be utilized, as long as all methods arrive at market value.

[44] The Board notes the Complainant is using inconsistent methodology to value the subject property. While the Complainant uses the cap rate of 8.25%, the lease rates that accompany the cap rates have a mean of \$21.73 psf. (Exhibit C-1 page 239). The Complainant then utilizes a lease rate of \$8.00 psf from another chart. This inconsistency results in an unreliable estimate of market value.

DECISION

[45] The decision of the Board is to confirm the 2012 assessment of \$17,026,190.

Dated at the City of Red Deer, in the Province of Alberta this 10 day of November, 2012 and signed by the Presiding Officer on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



S. Parsons, Board Clerk for
M. Mowbrey, 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

NO.

ITEM

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| 1. A1 | Agenda |
| 2. C1 | Complainant's Disclosure of Evidence |
| 3. R1 | Respondent's Disclosure of Evidence |

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Decision No. 0263-513/2012			Roll No. 678015006	
<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Non-Residential	Commercial	- market value	- methodology