

**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-26.1, Section 460(4).

between:

Rickard Realty Advisors, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Ed Reuther, MEMBER

Dick Cochrane, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 091010801

LOCATION ADDRESS: 4412 – 9 Street S.E

HEARING NUMBER: 57836

ASSESSMENT: \$2,570,000

This complaint was heard on 21 day of June, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- Rickard Realty Advisors – B. MacFarland

Appeared on behalf of the Respondent:

- City of Calgary – J. Young, Assessor

Property Description and Background:

The subject property is a 14,860 sq. ft warehouse located on 45,471 sq. ft. of land at 4412 – 9 Street S.E Calgary and constructed in 1961. The assessment is \$2,570,000 for 2010. The building has no finished office area and has site coverage of 27%. The Complainant has brought forward both an issue of market value and an issue of equity respecting the assessment of this property.

Issues:

1. Is the subject property assessed in excess of its market value as of July 1, 2009?
2. Is the assessment of the subject property inequitable considering the assessment of similar properties?

Board's Decision in Respect of Each Matter or Issue:

1. The subject assessment is not in excess of its market value as of July 1, 2009.
2. The subject assessment is equitable considering the assessments of other similar properties.

Overview of the Positions of the Parties

The Complainant provided four comparables which showed an average per sq. ft. value of \$129.69, however the Complainant argued that the best of the four comparables is the property at 4301 – 9 Street S.E which is just across the street from the subject. This property had sold April 20, 2009 for \$125. 65 per sq. ft. and is assessed at \$151.70 per sq. ft. While two of the four sales were post the

valuation date of July 1, 2009, the Complainant argued that there are few sales in the valuation year and therefore it is preferable to use these sales than sales that may not otherwise be as comparable. The Complainant indicated that while the site coverage of the subject is 10% less than that of the comparable across the street this fact would not be overly significant in the market. The Complainant using the per sq. ft. value of \$125.65, arising from this comparable and multiplying this value by the 14,806 sq. ft. of rentable area of the subject, arrived at their requested value of \$1,870,000 for the subject.

The Complainant also observed that the Respondent appears to be over assessing other similar properties in this area and if one were to apply an assessment to sales ratio (ASR) of 108% to the sold properties it shows that a more equitable assessment for the subject would be in the range of \$2,063,000. In accordance with the principles set out in the *Bramalea Limited v Assessor of Area 09 – Vancouver* case, the Complainant argued that the taxpayer should be granted the lower of a correct market value or, that of a value based on equity with assessments of similar properties.

The Respondent brought forward an additional list of five sales showing time adjusted per sq. ft. values ranging from \$192 to \$251.00 per sq. ft. and suggested that even if these sales were combined with the Complainant's sales the resulting values would support the assessment. The Respondent indicated that the Board should not place weight on the post facto sales offered by the Complainant as the market was declining over the period July 1, 2009 through year end and no adjustments for time had been considered by the Complainant. Further these sales were not included by the City of Calgary in developing their assessment criteria for the 2010 assessments. post-facto sales should only be considered from a trending perspective and should not be given weight in determining the assessment in any given year.

With regards to the Complainant's equity argument, the Respondent argued that it is not appropriate to attempt an ASR analysis across two valuation periods and without making adjustments for changes in the market place. The Respondent provide their own list of seven equity comparables within reasonable proximity of the subject showing values ranging from a low of \$165.00 per sq. ft. to a high of \$212.00 per sq. ft. The Respondent claimed that the assessments of these properties show the assessment of the subject to be equitable.

Reason for the Decision

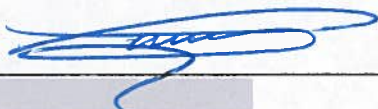
The CARB carefully reviewed the Complainant's sales comparables and concluded weight could not be placed on the post-facto sales without first determining the appropriate adjustment for market change since July 1, 2009. The comparable that the Complainant suggested should be given the greatest weight was the property across the street for the subject at 4301 - 9 Street S.E. The Complainant relied entirely on the per sq. ft. value arising from this sale to calculate their requested assessment. This property however had site coverage of 37% vs the subject at 27% and the CARB was not persuaded that this property could be compared directly with the subject without definitive evidence as to the market impact respecting the additional land factor. Also the CARB is reluctant to place weight on one sale unless that sale is of the subject itself.

With respect to the question of equity, the CARB agrees with the Respondent that the ASR analysis done by the Complainant is flawed as time adjustment were not considered and the degree of similarity would also have to be clear or adjustments made. The CARB therefore placed little weight on this information.

Decision Summary

Based on the foregoing the decision of the CARB is to confirm the assessment for the subject property at \$ 2,570,000.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July 2010.



Presiding Officer

xxx/xx

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.*