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, Section 460(4).

between:

Colliers International Realty Advisors, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Myron Chilibeck, Presiding Officer
Robert Kodak, Member
Richard Glen, 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: **097005102**

LOCATION ADDRESS: **4215 – 61 AV SE**

LEGAL DESCRIPTION: **Plan 7410843, Block 6, lot 2**

HEARING NUMBER: **57554**

ASSESSMENT (2010): **$9,220,000**

This complaint was heard by the Composite Assessment Review Board on 11th day of August, 2010 at the office of the Assessment Review Board in Boardroom 4 located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *Michael Uhryn*

Appeared on behalf of the Respondent:

- *Aram Motadi*

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

There were no objections to the composition of the Board.

The Complainant advised the Board that the disclosure of evidence was not received from the Respondent for this complaint and that the circumstances are identical to those for file numbers 57551 and 57577 that were heard August 10th. After the hearing, the Complainant requested and received a copy of the Respondents evidence and advised the Board that he was prepared to proceed with hearing the merits of the complaint.

Property Description:

The subject property is an industrial warehouse located in the Foothills district in south east Calgary. There are two buildings, constructed in 1976 and 1977, situated on the parcel and each has a footprint area of 57,760 square feet. One building has a rentable building area of 62,560 square feet and the other has 57,760 square feet for a total rentable area at 120,320 square feet. The parcel of land contains 5.19 acres or 226,076 square feet. Parcel coverage is 51%.

The property assessment is determined using the Direct Sales Comparison method and is assessed at $9,220,000 which equates to $76.67 per square foot of total building area.

The Complainant requests a reduction in the assessment to $5,680,000 which equates to $50 per square foot of rentable area based on the capitalized income method less an allowance for roof replacement.

Issues:

The ARB Complaint form identified a list of 17 reasons for complaint. However, at the outset of the hearing, the Complainant clarified there were only three reasons:

1) The actual net rentable building area is 114,202 square feet
2) The capitalized income method produces a more accurate estimate of market value
3) The physical condition and attributes of the property has not been properly reflected in the subject's assessed value.

Complainant's Requested Value:

$5,680,000

Board's Decision:

The assessment is changed to $8,750,000.

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

Issue 1)

The Complainant provided a tenant rent roll as of December 1, 2009 for each of the two subject buildings. Building number 1, addressed 4215, is shown to have a rentable area at 57,420 square feet and is 100% occupied. Building number 2, addressed 4315, is shown to have a rentable area at 56,782 square feet and is 100% vacant. Total rentable area for these buildings is 114,202, square feet. These rent rolls were used to support the areas used by the Complainant to calculate their requested reduction in assessment.

The Respondent provided an Assessment Request for Information (ARFI) form received from the owners on April 2, 2009 showing the total rentable area for the two buildings at 114,202 square feet. This ARFI shows there is no vacancy; that both buildings are 100% occupied. It was suggested by the Respondent that the differences in areas between the two parties could be attributable to mezzanine areas.

The Board heard from both parties that they did not inspect the building to resolve the area discrepancy between the assessed rentable area and the ARFI and rent roll areas.

The Board finds that the building rentable area to be 114,202 as shown by both the ARFI and the rent rolls dated 2008 and 2009. Both of these documents show the same rentable areas for both buildings and each document is for a different year with one year being the assessment year. The Board finds this information persuasive to change the rentable area.

Issue 2)

The Complainant argued that the capitalized income method produces a more accurate estimate of market value versus the Respondents' direct sales comparison method. Because of the limited sales activity in 2009, it is difficult, if not impossible, to determine the correct assessment for the subject by the direct sales comparison method. Complainant asserted that the capitalized income method is the most reliable method because there is better data available in the market place, such as lease, vacancy and capitalization rates.

Four lease comparables were provided by the Complainant within reasonable proximity to the subject with recent commencement terms that range from $6.50 to $13.70 per square foot to support the use of the $8.00 rent rate for the subject. Also, two lease listings provided show asking rates of $6.50 and $11.00.

The Complainant provided two sale comparables to support the use of an 8% cap rate. The one sale in SE Calgary has a building area of 178,009 square feet, built in 2008, sold in July, 2009 for $113 per square foot for a stabilized overall cap rate (OCR) at 7.68%.

The other sale in NE Calgary has a building area of 302,135 square feet, built in 2000, sold in August, 2009 for $85 per square foot for a stabilized overall cap rate (OCR) at 7.17%.

The Complainant rationalized that because these sales are superior in age, condition and area, a cap rate of 8% would be used to value the subject.

A vacancy allowance of 25% was used by the Complainant based on the fact that the subject property and two other properties, with identical buildings and area and in the immediate vicinity of each other, are operated as one entity and since one of the two buildings on the subject parcel is 100% vacant, that makes the vacancy factor at 25% when the three properties with four buildings are considered together as one property.

Other factors, operating costs at $3.00 per square foot, structural allowance at 1.0% were used to arrive at a value at $7,408,855 prior to adjusting for deferred maintenance or more specifically roof replacement.

The Respondent questioned the use of a 25% vacancy factor when real estate industry reports show it to be at 6%.

The Complainant questioned the use of the direct comparison method in light of the fact that the majority of sales (92%) used by the Respondent are from 2007 and 2008 and only 8% are from 2009, the assessment year for the subject property. Four sale comparables of recent transactions were provided on a spread sheet and acknowledged that "each of them needs to be properly adjusted for changes to the market place." Complainant asserted that because of the limited number of sales in 2009 it is difficult to determine the correct value for the subject by the direct sales comparison method and consider this method inconclusive.

The Respondent provided three sale comparables from within the same zone as the subject, similar in most other respects with time adjusted sale prices ranging from $87 to $98 per square foot of building area in support of the subject assessed rates of $76.97 and $76.41 (or $76.67 for both buildings combined as one).

Also, the respondent listed the Complainants' four sale comparables within the same zone as the subject and similar in most other respects with time adjusted sale prices ranging from $71 to $87 per square foot of building area in support of the subject assessed rates.

Four equity comparables were provided by the Respondent, all from within the same zone as the subject and similar in most other respects with time assessed rates ranging from $78 to $85 per square foot of building area in support of the subject assessed rates.

The Respondent asserted that the sale comparables from both parties and their equity comparables show that the subject is fairly and equitably assessed.

The Board is not convinced the Complainants' capitalized income method produces a more accurate estimate of market value. Both the capitalized income and direct sales comparison methods are accepted valuation methods. The Complainant's two sale comparables used to support their cap rate, four lease comparables and the vacancy factor did not persuade the Board to give serious consideration to this calculation. The two sales are significantly different than the subject in area, age, and location and the sale date, though very close to the valuation date and in the assessment year, are post facto to the valuation date and were not included in the Respondents' analysis. Board believes the 26 sales in the analysis period of July, 2008 to June, 2009 could be used for cap rate analysis as well as direct sale comparison analysis.

The Board finds the use of a 25% vacancy factor to be flawed. The Board finds that the second building on the subject parcel has not been vacant for 2 ½ years as answered by the Complainant. The rent roll as of December 2008 shows this building is 100% occupied, the ARFI received April 2009 shows this building is 100% occupied. It appears the vacancy occurred between April 2009 and December 2009. Board believes that it would be reasonable to use a typical vacancy rate when using the capitalized income method in this case.

The Board finds the Complainant did not advance any persuasive evidence or argument to support their contention that an error was made in the direct sales comparison method in preparing the subject assessment. Board finds that of the 41 sales for the analysis period of July 2008 to July 2009, 26 sales are in SE Calgary and believes that these could be used to determine values by either method of valuation. Board recognizes that seven of the 26 sales are in the 2009 assessment year; however the Board also accepts that it is reasonable to use the 26 sales from the 12 month period prior to the valuation date for assessment analysis.

The Board finds the sale comparables from both parties and the Respondents' equity comparables compelling and in support of the subject assessment. These comparables are similar to the subject in many respects and support the assessed rate(s) of the subject. Board also notes the ASRs on the Complainants' chart of four sale comparables range from 0.97 to 1.18. Three sales have an ASR very close to 1.00 and the time adjusted sale prices and the equity assessed rates support the subject assessment.

Issue 3)

The Complainant claimed the subject property suffers severe deferred maintenance and as result requires significant repairs to the roof in the form of replacing the roof.

The Complainant provided a report by an Accredited Roof Inspector from an engineering company indicating that the roofs on both subject buildings should be replaced; the waterproofing membranes on building 4215 are in urgent need of replacement and the membranes on building 4315 are in fair to poor condition. For building 4215, indicate replacement date is 2010 and for building 4315, indicate replacement date is 2011 at an estimated cost of $864,000 for each building. The Complainant was not able to confirm if the roof has been replaced on building 4215 or if the replacement has commenced.

These estimated costs were deducted from the Complainants' capitalized income value of $7,408,855 to arrive at the requested reduction in assessment at $5,680,000.

The Respondent contended that roof is a maintenance item that eventually and periodically needs to be replaced. This is covered by the structural allowance or reserve for replacement allowance in the capitalized income method. Respondent requested that no allowance be given for the roof replacement.

The Complainant did not provide any evidence to support the fact that the leasing of the subject is affected or that the current tenants are significantly affected because of needed roof replacement. Building 4215 is 100% occupied and the lease contracts have an end date ranging from 2010 to 2013 with three in 2013 and two in 2012. There is no evidence to indicate that tenants have vacated or intend to vacate their premises. Building 4315 was occupied by one tenant who vacated sometime between April and December 2009. No evidence was provided to support the vacancy occurred because of the roof.

The sale comparables from both parties and the Respondents' equity comparables are of similar vintage and the Board believes these comparables are in a similar condition as the subject. If the subject needs roof replacement, it could well be that roofs of the comparables need replacement. No evidence was provided to convince the Board that the comparables are superior to the subject because they have new or newer roofs and that an adjustment should be made to the sale price per square foot to reflect the subject's roof condition.

The Board accepts that a replacement reserve provides for periodic replacement of building components such as a roof. Board believes that a prudent owner would maintain a replacement reserve to provide for the replacement cost of short-lived building components, such as a roof. Also, when dealing with rental properties, such as the subject, a portion of the rental income would be put into a replacement reserve to pay for the periodic replacement of building components, such as roof.

The Board is not convinced to change the subject assessment by allowing a reduction for roof replacement.

The Board changes the assessed rentable area to 114,202 square feet and accordingly changes the assessment to $8,750,000.

DATED AT THE CITY OF CALGARY THIS 3rd DAY OF SEPTEMBER 2010.

Myron Chilibeck
Presiding Officer

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.