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:

Sedock Holdings Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER
B. Jerchel, MEMBER
I. Zacharopoulos, MEMBER

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

ROLL NUMBER:	**100012608**
LOCATION ADDRESS:	**820 59 Ave SE**
HEARING NUMBER:	**57137**
ASSESSMENT:	**$5,110,000**

This complaint was heard on the 29th of November, 2010 at the office of the Assessment Review Board located on the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Property Description:

The subject property is located in the Burns Industrial district in the central zone. It consists of 3.66 acres of land zoned I-G, improved with two buildings. Building 1 is a single storey building assessed as a 15,600 SF single tenant warehouse constructed in 1999 with 0% finish. Building

2 is a three storey building adjacent to but separate from Building 1. It is assessed as a 15,285 SF multi tenant warehouse constructed in 2007 with 100% finish. The total site coverage is 13.0%. Both buildings are valued on the sales comparable approach at $227/SF and $246/SF respectively for a total value of $7,309,891.

The parcel is located adjacent to the former Blackfoot landfill, which was operated by the City from 1968 to 1972, and is subject to methane gas and settlement issues. The City applies a negative adjustment of 30% to the total value for an adjusted value of $5,116,923 which, truncated, is the assessment under appeal.

Issues:

On the Complaint form, the Reasons for Complaint stated there were a number of factors which make this a unique property, including but not limited to health and environmental issues, poor access and restricted property uses. These factors severely reduce the value of the property, and an appraisal was prepared that sets the value at $3,900,000.

At the hearing, the issue of negative influence and the 30% adjustment applied was not under dispute. The only item under dispute was the unadjusted value of the subject property and whether the appraisal accurately reflects its value before applying the -30% adjustment.

Complainant's Requested Value:

$3,900,000 revised to $2,730,000 at the hearing.

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

Complainant's position:

The Complainant presented a history of the property assessment and background of the methane gas and settlement issues arising from the proximity to the landfill. Insurance costs are higher and banks will not finance the property. The assessment history since 2002 indicated consistent reductions upon appeal, some by agreement and some by Board decision. Due to the problems with the site, the buildings are relatively new but were constructed very cheaply, using steel structure and Exterior Insulation Finish System (EIFS) as compared to better quality warehouses built of concrete block. Due to settlement problems the majority of the site remains gravel surfaced and only a small area next to the office building was paved for parking. The buildings were required to be sited on the west edge of the property to provide maximum setback from the landfill. This resulted in a single access point, whereby trucks associated with the warehouse portion drive through the office parking lot.

The low quality of construction results in higher maintenance and utility costs, and the proximity to the landfill results in problems with leasing. The buildings were required to have methane gas ventilation systems, but certain uses (eg. food services) are nevertheless not permitted in this location. This has caused difficulty in leasing Building 2 and the loss of one potential tenant who was denied a business licence in this space. The occupancy permit was obtained around October 2007 but only the main floor space was leased at that time. A small portion of the second floor was finally leased in the summer of 2010 and the third floor remains vacant.

The Complainant argued that the subject property was unique and did not fit within the

Respondent's algorithm for determining comparable sales, and the properties used to arrive at the assessment are not comparable.

The Complainant presented an appraisal report prepared by Altus Group Limited with an effective date of July 1, 2009. The appraisal report noted that the site had unique features such as single point access from 59 Ave SE, buildings positioned with maximum setback from the former landfill and no formal connection to storm sewer. In view of this the appraiser estimated only moderate liquidity which was reflected in the value reported. The appraiser also identified that for the purposes of the report, the soil and building are assumed to be free from any form of environmental contamination, and that should any exist then any costs to remedy should be deducted from the reported value. Two approaches to value were used in the report.

Sales Comparison Approach, using separate analyses for land and building value:
- Four vacant industrial land sales were considered, resulting in a conclusion of land value for the subject at $550,000 per acre.
- Improvement value was based on four sales of 27,260 to 64,110 SF warehouses in Foothills and South Foothills constructed between 1979 and 1980 (one expanded in 2006) that occurred between December 2008 and August 2009. Land value for each sale was deducted resulting in a residual building value of $44 to $67/SF. In view of the subject's positive attributes of newer vintage, generally modern buildings combined with negatives of positioning of the buildings with a single access point and limited success in marketing the vacant office space, the conclusion of building value for the subject was $60/SF.

The summary of value using the sales comparison approach was $1,920,000 for the improvements and $2,013,000 for the land resulting in a value, rounded, of $3,900,000.

Income Approach, using parameters for rent, vacancy, operating costs and capitalization rate:
- Rent: Recent lease transactions (late 2008 and 2009) for warehouse space of 14,000 SF to 21,500 SF were reviewed and indicated a market rent of $10 to $14/SF. The actual rent paid for Building 1 at $12.70/SF including the yard was considered reflective of market and used in the analysis. The $12/SF actual rent for the 3,400 SF leased portion of Building 2 was used, however the appraiser considered the 11,600 SF vacant space was not capable of achieving similar rents and forecast market rent of $6/SF which is more in keeping with rents achieved for storage or undeveloped space and applied $6/SF to the vacant space.
- Vacancy of 5% was used, no supporting analysis provided.
- Capitalization rate (cap rate): Five investment transactions between September 2008 and July 2009 demonstrated overall cap rate of 7.56% to 8.79% for comparable industrial properties, with 8% being selected as an appropriate rate for the subject.

The appraisal concluded a value of $3,800,000 based on the income approach.

The final value conclusion of the appraisal report was $3,900,000. The Complainant stated that since this value assumed an uncontaminated condition, the 30% adjustment should be applied. In the previous year, the Complainant had accepted the Respondent's offer prior to the hearing, but had been advised that the -30% applied only to the land. It was later determined that it should have been applied to the total value of land and buildings, and therefore the request is to reduce the assessment to $3,900,000 less 30% for a total assessment of $2,730,000.

This equates to an assessment of $88.39/SF or $126.27/SF before the negative adjustment. This value is supported by comparison to properties in the immediate area that have an average assessment of $91.47/SF and properties nearby in Shepard Industrial that have an average assessment of $116.76/SF. The neighbouring properties are superior to the subject as they are of concrete block construction and front onto Burbank Road which is a paved thoroughfare, compared to the steel construction of the subject and location on 59th Avenue which is a dead end street only paved to the access point of the subject.

Further, the rentable area of the office building is overstated. The actual rentable area should exclude common areas, elevator and stairs, 10,500 SF not 15,285 SF as assessed.

The Complainant noted that the Respondent had offered a reduction to $3,900,000 and then a further reduction to $3,600,000. The 2009 assessment was $5,470,000 reduced to $3,642,000 while the current assessment was $5,110,000 indicating that values had dropped between 2009 and 2010. $3,600,000 was still too high relative to the adjsuted 2009 assessment.

Respondent's position:

The Respondent agreed that a reduction had been offered, but this had been made before reviewing the appraisal. The Sales Comparison Approach used in the appraisal is a modified cost approach and does not represent a typical sales comparison analysis. Further, the comparables used to generate the residual building value were all substantially older and larger than the subject.

For a multiple building property, the Respondent uses sales of single building properties that are similar in size, year of construction, site coverage and % finish to each of the subject buildings. The buildings are analyzed separately and the values added together to arrive at the unadjusted total value. The 30% adjustment has been applied to recognize the problems associated with proximity to the landfill. The neighbouring properties do not receive this adjustment as they are farther away. The Respondent presented five sales comparables of industrial properties that had sold between August 2007 and April 2009, constructed between 1962 and 2008 with 10.39 to 22.87% site coverage and net rentable areas between 12,002 and 20,699 SF. They had 16 to 29% finish and sold for a time adjusted sale price of $216 to $251/SF.

The Respondent also presented 7 equity comparables of properties within the Central and Southeast zones of single tenant warehouses between 9,341 and 14,419 SF with 0 to 100% finish and 13% to 29% site coverage. The assessments were $207 to $247/SF.

The assessment comparables provided by the Complainant were not comparable. All were substantially older and larger that the subject buildings, and generally had much higher site coverage. The value per square foot of a 100,000 SF warehouse is not an indicator of value for a 15,000 SF warehouse; the larger warehouse will have a significantly lower value per SF.

The Respondent presented a diagram showing the outline of Building 2 to support the rentable area calculation. The diagram (p.20, R1) indicated 5,109 SF Main Floor (Office)+5,088 SF Second Floor (Office)+5,088 SF Third Floor (Office) to total 15,285 SF. No deductions were made for elevators and stairways and the Respondent could not confirm whether they were typically deducted. The Respondent agreed that a three storey multi tenant warehouse was not typical. A cost calculation using Marshall and Swift resulted in the warehouse at $792,690 and the three storey building at $2,116,275, which added to the land cost at $550,000 as indicated in the appraisal results in a total value of $4,921,965 which is very close to the assessment.

The reduction had been offered before the appraisal had been analyzed and determined to be flawed. Accordingly, the Respondent stated that the comparables submitted support the market value and the 30% reduction adequately recognizes negative influences to the subject, and therefore requested that the assessment be confirmed.

Decision and Reasons:

With respect to Building 1, the Board agrees with the Respondent that the value per square foot of a substantially larger warehouse is not a reliable indicator of value for the subject, and that sales comparison approach using residual building value is not as reliable as direct comparison of similar improved properties. While the sales provided by the Respondent predated the downturn in the market, they were more similar to the subject than the sales used in the appraisal. The Complainant provided only anecdotal information to support the contention that the time adjustment applied by the Respondent was insufficient, and did not suggest what the proper time adjustment should be. On balance, the Board was satisfied that the Respondent's sales supported the market value of the subject prior to negative influences.

With respect to Building 2, the Board is of the opinion that the photographs indicate an office building, not a multi tenant warehouse. The Respondent's floor area diagram and Marshall & Swift construction cost calculation indicate that the Respondent also considers it a three storey office building. The Board does not consider the sale prices per square foot of warehouses to be indicators of market value of an office building. The only evidence presented with respect to the value of Building 2 was the income analysis presented in the appraisal. The Board accepted the rental rates suggested by the appraiser in consideration of the historical difficulty of leasing the space, and found the cap rate analysis to be reasonable. There was no evidence to support the vacancy rate but in view of the much higher actual vacancy, 5% was reasonable. Accordingly, the Board determined the value of the office building to be $1,297,890 based on $12/SF for 3,400 SF, $6/SF on 11,600 SF, 5% vacancy and 1% structural based on the values used in the appraisal. The Board considered the position of the Complainant with respect to the actual rentable area but relied on the information in the appraisal.

Accordingly, the total value, before adjustments, is $4,848,890. It is noted that this is very close to the value determined by the Respondent using Marshall & Swift. There was no dispute with respect to the 30% negative adjustment, therefore the appropriate assessment is $3,394,223 truncated to $3,390,000.

Board's Decision:

The complaint is allowed, in part, and the assessment reduced to $3,390,000.

DATED AT THE CITY OF CALGARY THIS 2 **DAY OF** December **2010.**

H. Kim
Presiding Officer

APPENDIX "A"
DOCUMENTS RECEIVED AND CONSIDERED BY THE BOARD:

NO.	ITEM
C1	Complainant Form
C2	Complainant's submission
C3	Complainant's rebuttal
R1	Respondent's submission

APPENDIX 'B"
ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
Ruben Sekhon	Sedock Holdings Ltd., Complainant
Daniel Sekhon	Sedock Holdings Ltd., Complainant
Robert Ford	Assessor, City of Calgary, Respondent

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.