

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Supplementary Property assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

365518 Alberta Ltd. Represented by Advantage Valuation Group Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, Presiding Officer
A. Blake, Board Member
K. Farn, Board Member***

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

ROLL NUMBER: 137 038 105

LOCATION ADDRESS: 4250 – 118 Avenue SE, Calgary

HEARING NUMBER: 60451

ASSESSMENT: \$811,500 (Supplementary)

This complaint was heard on the 31st day of January, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- Brenda MacFarland, Agent
Bruce Finnigan, Witness

Appeared on behalf of the Respondent:

- Kelly Gardiner, Assessor

Preliminary Matters:

Between the dates of filing the complaint and the hearing, the Complainant and the assessor had been meeting to discuss the assessment and the complaint. During these meetings, it was discovered that the building had not been completed as reflected in the assessment. Following these meetings, the assessor recalculated the Supplementary Assessment based on factual changes. The revised Supplementary Assessment would amount to \$409,159 rather than \$811,500 as shown on the notice.

The original assessment on this property was \$2,140,000 (January 2010 Property Assessment Notice). That assessment was prepared using a land value (not disclosed) plus a percentage of the building permit value (not disclosed). When the building was deemed to be complete, the property details were entered into the industrial property assessment model. That model generated a total 2010 assessment of \$2,951,957 but after the assessor corrected factual data such as floor area and office development area, the total was reduced to \$2,549,616. When the original 2010 assessment amount was deducted, the new supplementary assessment was \$409,159. When the owner filed the complaint against the supplementary assessment, it was based on the amount on the notice of \$811,500, however, the Complainant was of the opinion that the \$409,159 was still too high.

Property Description:

The property that is the subject of this complaint is an industrial property. It comprises a 1.06 acre industrial lot in the Southbend Business Park improved with a one storey, two bay industrial building that was not considered to have been fully completed as at the condition date for the 2010 assessment (December 31, 2009). In November 2009, one bay was completed and the owner moved in. The second bay was reported to have been completed in early 2010 which led to the supplementary assessment. The building contains a ground floor area of 11,928 square feet. Mezzanine floor space of 2,653 square feet was intended for storage use only.

Issues:

The Complainant raised the following matter in section 4 of the complaint form: *Assessment amount (No. 3 on form).*

The Complainant also raised the following specific issues in section 5 of the Complaint form:

"365518 Alberta Ltd. believes the assessed value exceeds the fair & equitable value of the property. This assertion is based on an appraisal performed by B Finnigan & Assoc. Ltd., an experienced & reputable appraiser, that has an effective date of May 1, 2009. This date is very close to the date the City uses to determine Calgary's real estate market for 2010 assessments. The appraised value was \$2,090,000.00 & was contingent upon the full & proper completion of the building, a condition that was met. The 2010 assessment of 2,140,000 & the supplementary assessment of 811,500 results in a total assessment of \$2,951,150.00. This is 41% higher than the appraised value. A difference of 41% does not seem reasonable and a reduction is requested."

The Complainant's evidence presented at the hearing stated the Issues as:

1. The supplementary assessment is not market value.
2. The supplementary assessment results in an overall property assessment that is not equitable.

Complainant's Requested Value:

\$0.00 (Supplementary). There was no complaint against the original 2010 assessment of \$2,140,000.

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

The Complainant acknowledged that the Respondent had considered the building areas and recalculated the supplementary assessment at \$409,159. Based on an independent appraisal of the property in 2009, the Complainant stated that the supplementary assessment was still too high and should be reduced to \$0.00. As support for the appraiser's opinion of market value, the Complainant offered that the land value (estimated at \$600,000) plus the completed cost reported by Rick Balbi Architect Ltd. in November 2009 would amount to a total of \$2,218,823.54.

The Complainant's witness, Mr. Bruce Finnigan, BA, AACI had appraised the subject property for the owner and transmitted the appraisal report under a certification dated January 9, 2009. The purpose of the appraisal was to estimate market value for commercial mortgage lending purposes. The valuation date was May 1, 2009. The final estimate of value of \$2,090,000 was conditional upon two assumptions:

"This valuation is contingent upon the full and proper completion of the industrial building now under way according to the plans included in the addendum herein. It also assumes no further deterioration in the industrial real estate market between now and its estimated May 1/09 completion date."

In his appraisal, Mr. Finnigan utilized the Income and Direct Comparison Approaches to value.

The Income approach was based on a net rental rate of \$12.00 per square foot of building area, a 5% vacancy allowance, \$0.25 per square foot structural maintenance allowance and a 7.0% capitalization rate. The value indicator by this approach was \$1,900,000.

Five property sales were analysed in the Direct Comparison approach. These properties had sold between the dates of September 5, 2007 and September 12, 2008. The appraiser stressed that all

of these sales were prior to the industrial market "collapse" in the Fall of 2008. Since his analysis was undertaken in December 2008 for a value estimate as at May 1, 2009, the appraiser made adjustments to the sale prices of the comparable properties to reflect market declines. Other adjustments were made as well. These were for factors such as site coverage, building clear height, building age, condition and quality, building size and location. From the unadjusted array of value indicators from \$119.72 to \$227.27 per square foot of building area, the appraiser applied adjustments for factors of variance between each comparable and the subject and then set the rate for the subject at \$175.00 per square foot, indicating a value of \$2,090,000. Adjustment factors and amounts were not set out in the appraisal but there was discussion pertaining to inferiority, superiority or equality of each adjustment characteristic of each comparable property.

The two value indicators were reconciled to a final estimate of market value of \$2,090,000 because the indicator from the Direct Comparison approach best reflected the actions of owner/user investors in the Calgary industrial market.

The Complainant provided data on other property sales and assessments in the filed evidence, however, these were not elaborated upon at the hearing.

The Respondent's evidence comprised a brief containing legislation and precedential case references, valuation methodology explanation, assessment summary, photos and maps of the subject property, data for six industrial property equity comparables and data on four comparable industrial property sales.

The Respondent's Assessment Explanation Supplement showed the industrial assessment model output for the completed property prior to the factual data corrections made by the Respondent. The Supplement showed a total valuation of \$2,951,957 which the Respondent corrected to \$2,549,616 at the hearing. Critical data for the subject was:

Site area:	1.06 acres
Site Coverage:	25.83%
Building Type:	IW S (Industrial Warehouse Single Tenant)
Rentable Building Area:	11,928 square feet (corrected area)
Finish:	11% (corrected)
Rate per Square Foot:	\$213.75 (corrected)

The subject property is located in NRZ (Zone) SO2. All six equity comparables were located in other southeast Calgary industrial/business zones (Foothills and Dufferin). Assessments on these properties ranged from \$102 to \$242 per square foot of building area. Building areas ranged from 11,571 square feet to 16,939 square feet. Year of construction of the comparable buildings was either 2008 or 2009. Site coverage ratios were from 3% to 25% and finish ratios were from 0% to 46%. No adjustments were made.

For the sales, one was located in zone SO2. The others were in Dufferin or Valleyfield. Sale dates were from August 2007 to April 2009. Building sizes were from 8,120 square feet to 17,550 square feet and finish areas ranged from 16% to 29%. Site coverage ratios were from 10.39% to 22.87% and the sale prices per square foot of building area were from \$203 to \$246 per square foot, indicating a median of \$224. Adjustments to sales are made within the assessment model and no explanation of those adjustments is provided in the sales summary pages in the brief.

The Respondent questioned the date of the Complainant's appraisal and the purpose for which the appraisal was completed. It was pointed out that other Calgary CARB decisions had found the Respondent's assessment model to be reliable.

Findings

In view of the above considerations, the Composite Assessment Review Board (CARB) finds as follows with respect to the Issues:

The original assessment was \$2,140,000. The Complainant's appraisal was \$2,090,000.

The supplementary assessment was based on an application of the assessment model which was subsequently corrected and then reduced by the amount of the original assessment.

The Finnigan appraisal was an estimate of market value. Assessments are to be based on market value. The effective date of the appraisal was May 1, 2009, two months before the effective date for assessments.

Evidence from both parties supported the contention that there had been negative changes in the Calgary real estate market between 2007 and July 2009. Sales used by the Respondent were all adjusted downwards to reflect market changes, however, there was no explanation of rates of decline. Adjusted sale prices indicated rates of decline from 0.25% per month (August 2007 sale) to 0.5% per month (April 2009 sale). The Complainant's appraiser stated that the market "collapsed" in the Fall of 2008 and continued to decline until January 2009, after which it remained more or less stable. It was difficult to measure rates of change because the 2008 collapse brought a halt to industrial property sales so there was no data upon which rates of change could be based.

Given the factual evidence and the oral presentations of the parties, the Board finds that the original assessment of \$2,140,000 was indicative of the market value of the subject property in a 100% complete state. The summary of costs of the architect Balbi showed that construction was complete as at November 17, 2009. That being the situation, the original assessment based on condition of the property at December 31, 2009 should have reflected 100% completion. To some extent, the original assessment and the appraised market value are supported by the \$2,218,823.54 sum of the land value (best estimate of \$600,000) and the total project costs of \$1,618,823.54.

The Board was not compelled to place weight on the assessment equity evidence that was provided. Accordingly, it was the evidence of market value that was accepted.

Board's Decision:

The 2010 Supplementary Assessment is reduced from \$811,500 to \$0.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF February 2011.



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

C1	Assessment Review Board Complaint Form
C2	Complainant's Supplementary Assessment Appeal Report
R1	Respondent's Assessment Brief

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.*