

**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, Revised Statutes of Alberta 2000 (the Act).

between:

***MT Investments Inc. (as represented by Cushman & Wakefield Property Tax Services),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
J. Joseph, MEMBER
R. Cochrane, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	201073350
LOCATION ADDRESS:	8816 – 40 ST SE
HEARING NUMBER:	66095
ASSESSMENT:	\$4,240,000

This complaint was heard on 13th day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *Mr. J. Goresht – Cushman & Wakefield Property Tax Services*
Ms. S. Ubana – Cushman & Wakefield Property Tax Services

Appeared on behalf of the Respondent:

- *Ms. K. Cody - Assessor – City of Calgary*

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None.

Property Description:

[3] The subject is a two-building multi-bay (IWM) industrial warehouse property on 9.41 acres (Ac) of land in South Foothills Industrial park. The site is zoned I-G – Industrial General. One building is classified as “B” Quality (1991 Year of construction – YOC) and is 14,807 square feet (SF) in area. The second building is 4,440 SF and classified as “C” quality (1979 YOC). The subject is assessed on a “Land Value Only” basis at \$4,240,000 – on the same basis and value as 2011.

[4] **Issues:**

1. The subject is assessed in excess of market and is inequitable.

[5] **Complainant's Requested Value:** \$3,175,000.

Issue #1

[6] The Complainant tendered his Brief C-1 and directed the Board to his page 2 where he presented a chart with containing several site characteristics for one assessment equity and three market sale property comparables. He also presented the subject, and identified several site characteristics related to it, which he compared to his four comparables. He argued briefly that the subject should not be assessed on a land only basis, but nevertheless the City's land value used to assess the subject is excessive.

[7] The Complainant noted that for his one assessment equity comparable – another multi-bay site, the assessed value per SF is \$130.93. He referenced his three market sales comparables and noted they sold for values of \$173.18; \$111.11; and \$136.73 per SF. Therefore, he argued, the subject, while presumably assessed for \$220.29 per SF based on the total building square footage in the two buildings onsite, is assessed much higher than the four comparables. He also suggested that the assessed value of the 9.152 Ac site, which he calculated to be \$445,752.73 per acre, is excessive.

[8] The Complainant provided the City's Property Assessment Summary Reports (AES) for the subject and his four property comparables. He referenced the building "Quality" assigned by the City to each of them and noted that his three market sales were "C" quality buildings whereas his single equity comparable was a "C+" building. The Complainant argued that on the basis of building quality alone, the subject is over-assessed and the assessment should be reduced to \$3,175,000.

[9] The Respondent presented her Brief R-1 and argued that the subject was assessed using the "Land Value Only" methodology and not on the basis of its respective improvements. She noted that the Complainant's three property sales comparables all transacted *Post Facto* the current assessment cycle and hence would not have been used in calculating the assessment for the subject. One sale occurred July 4, 2011; sale #2 transacted September 14, 2011; and sale #3 transacted November 30, 2011. She argued therefore that at least two of these three market sales are unreliable as indicators of value for the subject as of June 30, 2011.

[10] The Respondent also argued that the Complainant's three market sales are not comparable to the subject when one examines their respective site characteristics. She noted the subject is 9.152 Ac whereas the three market sales are 3.66; 1.31; and 1.18 acres respectively and are not comparable to the subject. Moreover, the Respondent argued that even if one was to compare the subject with other similar properties via site improvements, the Complainant has omitted several critical valuation elements such as per cent site cover, and percent of office finish. She argued that this data is essential in order to properly and accurately compare such sites.

[11] The Respondent introduced the City's "2012 Industrial Land Values" chart which, pursuant to the City's analysis of the market, revealed that for southeast Calgary "Industrial General – I-G" zoned land sells for \$525,000 per acre. She clarified that this value was initially applied to the subject during its assessment. She further clarified that because the South Foothills area is "in transition" all properties in that area receive a 15% value reduction to their assessed values. She noted that the subject has in fact received such a reduction.

[12] The Respondent offered that the subject's assessment was calculated as follows - $9.152 \text{ Ac} \times \$525,000 = \$4,993,800 \times .95 = \$4,240,000$. She noted that this is the same assessed value as last year in 2011 – which value was not appealed by the Complainant. She noted that land values in the Foothills area have not changed since 2011.

[13] The Respondent outlined the following rationale for assessing properties like the subject on a land only basis:

"The City of Calgary's Assessment Business Unit (ABU) has valued any non-residential improved property, where the vacant land value exceeds the value as improved, on land value. This methodology ensures that equitable assessments between similar properties is maintained. It is the position of the ABU that to assess an improved property below the threshold of the underlying vacant land value is to inequitably assess such properties."

[14] The Respondent argued that several Assessment Review Boards have confirmed this methodology and principle. She provided excerpts from, and complete copies of several Board Decisions such as ARB 2548-2011-P; ARB 1191-2010-P. She also provided complete copies of Decisions of CARB 2521/2011-P; CARB 2594/2011-P; and ARB 0867/2010-P.

[15] The Respondent provided a chart containing the details of six time-adjusted market sales of I-G zoned industrial parcels which occurred in southeast Calgary - four of which transacted in 2011 and two in 2010. She noted that the per acre land values of this sample of six sales, supports the \$525,000 per acre used by the City to value the subject. She also noted that while two of the six properties received a "positive" 5% additional assessed value in the City's Model due to a "corner lot" positive influence, when this 5% is removed from the calculation, the overall value of the six properties supports the \$525,000 per Ac assessment value.

[16] The Respondent provided a matrix of seven assessment equity comparables which she argued supported the assessment and demonstrated that it is equitable. She noted that all parcels are zoned I-G like the subject, and are located in Foothills industrial area, except for one at 10220 - 52 ST SE which is in Dufferin industrial area. She noted that this latter property does not receive the 15% reduction afforded the Foothills area properties. The Respondent clarified that all seven properties have been valued on the basis of land value only and support the assessment of the subject.

[17] The Respondent requested that the assessment be confirmed at \$4,240,000.

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

[18] The Board finds that the subject is assessed using the "Land Value Only" market value methodology and not "Land and Improvements" as suggested by the Complainant.

[19] The Board finds that the Respondent's analysis of the Foothills Industrial area indicates a 15% negative adjustment is applicable to properties located in this area, and the subject has also benefitted from this negative adjustment.

[20] The Board finds that the Respondent's "in-time" and "time-adjusted" market sales and assessment equity evidence supports both the vacant land values used in the subject's assessment, and its equitable treatment in the assessment process.

[21] The Board finds that the Respondent's market comparables display individual characteristics that are similar to the subject and support its assessed value.

[22] The Board finds that the Complainant's market sales are all "*Post Facto*" the current assessment cycle, were not used to assess the subject, and hence are unreliable as indicators of alternate value for the subject.

[23] The Board finds that the Complainant provided insufficient information to demonstrate that the assessment is incorrect.

Board's Decision:

[24] The assessment is confirmed at \$4,240,000.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF July 2012.


K. D. Kelly
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	Respondent Disclosure

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.*

For Administrative Use Only

Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	Assessed as if Vacant land	Market value	equity