

**REVISED
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:

Macbain Properties Ltd. (as represented by AltusGroup), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, D. Pollard
Board Member 2, K. Farn***

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 2011 Assessment Roll as follows:

ROLL NUMBER: 116022690

LOCATION ADDRESS: 8010 – 44 Street SE

HEARING NUMBER: 63861

ASSESSMENT: 3,910,000.00

This complaint was heard on 21 day of June, 2011 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom One

Appeared on behalf of the Complainant:

- *Mr. John Smiley*

Appeared on behalf of the Respondent:

- *Mr. Ian Baigent*

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

At the outset of the hearing, the Respondent objected to the Claimant's rebuttal submission on the grounds that portions of the document represented new evidence not previously disclosed. Upon review, the Board finds that pages 13 to 15 were in fact, new evidence, and were not allowed to be presented. Pages 77 to 128 were also objected to by the City, but were allowed because they represented supporting documentation to previously presented evidence in the Capitalization Rate study that was called into question by the Respondent. The last section objected to—pages 129 to the end of the document – was also allowed since they represented background information on capitalization rates contained in the Respondents own manual, and was not considered new information.

Property Description:

The subject is an industrial property, comprised of a single tenant warehouse building, located in Foothills Industrial Park. The building contains 23,042 s.f. and was constructed in 1995. The site area is 3.02 acres. The site coverage is 16.36 per cent. The City has 1.37 acres classified as extra land.

Issues: (paraphrased from the Complainant's submission)

- 1. There is only one sale in the same size range of the subject in Foothills, and thus cannot be relied upon to accurately predict the value of the subject. Alternative methods must be evaluated to determine the subject's value.*
- 2. The income approach to value suggests that a lower value is warranted.*

Complainant's Requested Value: \$3,330,000.00

Evidence

The board notes that the current assessment calculates to \$169.69 per s.f. of building footprint area.

At the outset of the hearing, the Complainant referred the Board to a capitalization rate analysis (Exhibit C-1) that would be applicable to this and a number of other complaints that bore some commonality to the complaint at hand. The study contained eight transactions from which an appropriate capitalization rate for two groups of buildings – constructed pre-1994 and post 1994, was extracted. No rationale for the 1994 demarcation was offered. The Complainant's conclusion was that the appropriate capitalization rates for the two building groups was;

Pre-1994; 8.25 per cent

Post-1994; 7.75 per cent.

The Respondent argued that the study was based on the leased fee interest, rather than the fee simple estate, and was therefore flawed. The Board does not agree, since that issue could only be determined by a review of the evidence submitted for each individual hearing.

In the Evidence submission, the Complainant presented five comparable transactions for comparison with the subject. The Complainant went on to say "*There are precious few sales in the Foothills Industrial Area upon which to base the value of the subject. In fact, there is only one in the same size range as the subject (15,000 to 30,000 sq. ft.) in the immediate area. It does make a reasonably good comparable, but there are no others, nonetheless.*"

The comparable referred to by the Complainant is a 21,644 s.f. warehouse, on 3.65 acres, in Foothills. The site coverage is 13.62 per cent. The building is about nine years older than the subject. The property sold in January, 2010, at \$179 per s.f.

The Complainant outlined two comparable leases for premises in South East Calgary. Rents were \$8.00 and \$10.50 per s.f. Start dates for the leases were June and October, 2010.

The Complainant adopted a vacancy rate of 5.0 per cent. That rate was not controverted by the Respondent. Finally, the Complainant adopted a capitalization rate of 7.75 per cent.

The Complainant also produced an implied rental rate calculation, including excess land, and one not including excess land. These calculations were not very helpful to the Board.

The Respondent presented 14 sales comparables that were presented as having "low site coverage", and eight comparables with higher site coverage. The group with low site coverage reflected selling prices ranging from \$171 to \$233 per s.f. The median appeared at \$223. The second group ranged from \$131 to \$171, with a median of \$131. If the second group

In response to the Complainant's income argument, the Respondent presented five rental comparables, reflecting rents ranging from \$8.50 to \$12.30 per s.f. The Respondent also presented the Assessment Request for Information showing the current rental for the subject property at \$11.50 per s.f. The lease start date was shown as March, 2011. However, of greater interest to the board is the previous rent—from March 2008- at \$13.50 per s.f.

Board's Decision

As for the premise that income capitalization is the preferred method of valuation, this Board, in keeping with CARB Order #0522/2010-P, "*will not identify a preference as to which valuation approach should be used to determine the assessed value of any property. It is the assessed value that this Board is authorized to adjudicate. If any party can satisfy the Board, to the extent required by law, that in application of any applied approach to value errors have been made that have resulted in an incorrect assessed value, then it is those errors, supported by market based evidence, that should be given consideration.*" That is not to say that an alternative method of valuation cannot be applied. However, any alternative method must be as equally well founded in market evidence as the method already being employed. In the case of multiple building properties, the income approach can be arguably more appropriate since separate rents can be applied to individual units or buildings.

While much of the evidence contained in the Complainant's Capitalization Rate study was unchallenged by the Respondent, the Board does not accept the Complainant's "cut-off" date of 1994 as being the demarcation line between a 7.75 and 8.25 per cent capitalization rate. The date is simply too arbitrary. In the market, there is no such difference over a one year period. Moreover the Claimant's analysis does not appear to take into account a property's condition, location, or other factors that can from time to time affect investor's yield expectations that have a direct effect on capitalization rates.

Based on the City's Assessment Request for Information, the Board concludes that the appropriate rent for the subject, at the effective date, was \$13.50 per s.f. That rent, reduced by five per cent for vacancy, and capitalized by a capitalization rate of 7.75 per cent, produces an indication of value of \$3,813,089.00 , or \$165.48 per s.f. of building area. That rate essentially adds a level of confirmation to the existing \$3,910,000.00 assessment.

The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF July, 2011.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1.	C1 Complainant Disclosure; Industrial Capitalization Rate Analysis, 2011 Assessment Year
2.	C2 Evidence Submission of the Complainant
3.	C3 Rebuttal Submission of the Complainant
2.	R1 Respondent Disclosure; 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.*