

**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:

***Opus Equities Corporation.
Rowanwood Properties Limited.
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***I. Zacharopoulos, PRESIDING OFFICER
Y. Nesry, MEMBER
P. Charuk, MEMBER***

[1] 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: 054006390

LOCATION ADDRESS: 2719 3 AV NE

HEARING NUMBER: 60930

ASSESSMENT: \$16,060,000

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on June 21st, 2011 at the office of the Assessment Review Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

[3] Appeared on behalf of the Complainant:

- *Mr. J. Mayer* *Linnell Taylor Assessment Strategies*

[4] Appeared on behalf of the Respondent:

- *Mr. M. Berzins* *City of Calgary Assessment*

BOARD'S DECISION IN RESPECT OF PROCEDURAL OR JURISDICTIONAL MATTERS:

[5] No procedural or jurisdictional matters were raised. However, it should be noted that the Board received a rebuttal submission from the Complainant one day after the due date – the due date being June 13, 2011 and the date received was June 14, 2011. Further to *Regulation AR 310/2009, Section 9(2)* the document was not part of the record before the Board and was not heard. The Complainant was advised of this fact at the time of the hearing.

PROPERTY DESCRIPTION:

[6] The subject property is a 13.62 acre parcel improved with 4 buildings located within the Meridian industrial area in NE Calgary. The 2011 Assessment Explanation Supplement shows the 4 buildings are individually assessed as follows:

- I. 30,648 square feet (sf), built in 1978, assessed at \$3,220,886 (\$105.00/sf);
- II. 34,650 sf, built in 2002, assessed at \$4,877,804 (\$140.77/sf);
- III. 41,675 sf, built in 1961, assessed at \$3,873,213 (\$92.94/sf), and
- IV. 31,500 sf, built in 1995, assessed at \$4,097,616 (\$130.08/sf).

REGARDING BREVITY:

[7] In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

MATTERS/ISSUES:

[8] The matter identified by the Complainant as the basis for this complaint is "an assessment amount".

[9] The Complainant has raised the following issues for the Board's consideration:

1. **Should the valuation have consideration for the total area of the 4 subject buildings rather than their individual characteristics?**
2. **Is the Income Approach to value (IAV) the recommended valuation method for the**

subject property?

3. Does the Complainant's IAV calculation produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?
4. Does the Complainant's equity evidence produce an appropriate market value indicator for assessment purposes the subject property as of July 1, 2010?

COMPLAINANT'S REQUESTED VALUE:

[10] \$13,039,690

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE:

[11] Along with the evidence the parties presented at the hearing the Board referenced the Municipal Government Act (MGA) and associated Regulations in arriving at its decision. We found the following to be particularly applicable to the complaint before us:

- **Municipal Government Act** Part 9 and Part 11.
- **Matters Relating to Assessment and Taxation Regulation 220/2004** (MRAT) Section 1; Part 1 and Part 5.1.
- **Matters Relating to Assessment Complaints Regulation 310/2009** (MRAC) Division 2 and Schedule 1.

[12] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. Evidence and argument was put before the Board by the Complainant in that regard; to show the assessment is incorrect and to provide an alternate market value as of July 1, 2010. The Board is to determine if (within the direction of the MGA and associated Regulations) it has been swayed to find the assessment is incorrect and if the market value determination as of July 1, 2010 should be revised.

[13] With regard to the individual issues identified above the Board's findings are as follows:

1. **Should the valuation have consideration for the total area of the 4 subject buildings rather than their individual characteristics?**

[14] The Complainant submits the subject property is over-assessed in that the subject property is "an investment property with four structures that have a total area of 138,473 sf" (Doc. C-1, pg 14). In support of his position the Complainant provides a market analysis under Doc C-1, pg 13.

[15] The aforementioned analysis supports the position that the unit rate (\$/sf) drops as the size variable increases; or, as the Complainant states, "larger buildings sell at a lower rate than small buildings".

[16] The Board finds the characteristic of the subject property however, is that there are 4 smaller buildings rather than one large building. To overlook that fact would be in contradiction of *MGA Sec 289(2)*.

[17] The Board finds the Complainant's request to somehow overlook the characteristics of the 4 individual buildings is inappropriate.

2. Is the Income Approach to value (IAV) the recommended valuation method for the subject property?

[18] The valuation standard applicable to the subject property is found under MRAT Sec. 6; that being market value. The MGA and associated Regulations do not identify specific valuation method(s) to be utilized in the determination of market value for the subject property. The *Alberta Municipal Affairs Detailed Assessment Audit Manual* (AMADAAM) excerpt presented by the Complainant (Doc. C-1, pg 36) is not limiting as it indicates the "recommended approach" for the valuation of warehouses is "income approach or sales approach or cost approach".

[19] In conclusion, the Board finds the MGA and associated Regulations do not set out valuation approaches for the subject property, and the AMADAAM offers multiple options for warehouse properties. The Board is therefore prepared to consider evidence pertaining to the determination of the market value of the subject property as of July 1, 2010 with no prejudice for any valuation method employed by the parties.

3. Does the Complainant's IAV calculation produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

[20] The Complainant has provided a valuation as per the IAV based on inputs progressed through the attached analysis (starting Doc. C-1, pg 26). The Complainant's IAV calculation (Doc. C-1, pg 11) shows the following inputs:

- Rent: \$8.00/square foot (sf)
- Vacancy: 5%
- Operating costs: \$3.00/sf
- Non-recoverables: 2%
- Capitalization rate (cap rate): 7.75%

[21] The Complainant's rental rate analysis is found under Doc. C-1, pg 15 and includes 6 references, including a 3 year lease extension for the 1995 built subject building. The Board finds 3 of the referenced properties are located in SE Calgary. Of the two remaining references (excluding subject #4), one shows a lease start date of March 2011, effectively a post-facto agreement. In light of the fact the referenced subject building #4 is a lease extension, the Board finds insufficient market evidence from which to draw a rental rate conclusion, especially one that can be applied universally to all 4 subject buildings as has been done by the Complainant.

[22] The Complainant's capitalization rate analysis is found under Doc. C-1, pg 25 indicating an emphasis on "warehouse buildings that were over 30 years of age". The Board finds this is not reflective of the subject property characteristics where buildings range from 8 to 49 years of age.

[23] The Board finds the Complainant's IAV calculation is based on uniform, subjective financial inputs not supported by market evidence.

[24] Consequently, the Board finds the Complainant's IAV calculation does not produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

4. Does the Complainant's equity evidence produce an appropriate market value

indicator for assessment purposes the subject property as of July 1, 2010?

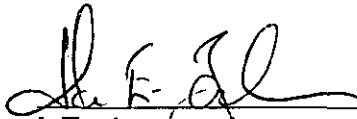
[30] The Complainant provided one purported comparable property as an equity reference, that being located at 536 42 Avenue SE. It is a 4.72 acre parcel improved with 4 buildings, all built in 1971. The Complainant looks to the overall calculated assessment rate of \$99.33/sf at that location as a reference for the subject property.

[31] The Board does not accept the equity argument in that (i) the comparability of the two properties is not established as the variable characteristics (e.g. location, size, age, etc.) are not effectively addressed, and (ii) once again the Complainant looks to a composite overall rate while the assessment record as provided by the Respondent (Doc. R-1, pg 32) indicates the purported comparable buildings are in fact assessed through differing assessment rates in light of individual characteristics.

BOARD'S DECISION:

[32] The assessment is confirmed at \$16,060,000.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF JULY 2011.



I. Zacharopoulos
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. Doc. C-1	Complainant's Disclosure
2. Doc. C-2	Complainant's Appendix items
3. Doc. R-1	Respondent's 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.*

Orsten, Chris S.

From: Orsten, Chris S.
Sent: 2011 July 21 3:32 PM
To: 'dsheridan@lta.ca'
Subject: Decision 1033/2011-P
Attachments: DOC001.pdf

Regards,

Chris Orsten

Assessment Review Board

The City of Calgary | Mail code #222

T 403.268.5858 | F 403.277.8421 | www.calgary.ca/arb

4th Floor, Deerfoot Junction Building 3 Building

1212 – 31st Avenue, Calgary, AB T2E7S8