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:

Safeway Holdings (Alberta) Ltd.
(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: **032028607**

LOCATION ADDRESS: **2181 41 AV NE**

HEARING NUMBER: **60793**

ASSESSMENT: **$2,250,000**

[2] This complaint was heard by a Composite Assessment Review Board (the Board) on June 22nd, 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. D. Sheridan* *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.

PROPERTY DESCRIPTION:

[6] The subject property is identified as the Westjet building, an improved property located near the intersection of 41st Avenue and 21st Street NE, within the North Airways industrial area in NE Calgary. The record shows the building's year of construction is 1975 and the assessed area is 17,101 square feet (sf). The assessment reflects a rate of $131/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. **Is the finished area properly recorded and valued?**
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 Direct Sales Comparison Approach (DSCA) to value analysis produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?**

COMPLAINANT'S REQUESTED VALUE:

[10] $1,770,000

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. **Is the finished area properly recorded and valued?**

[14] There was discussion between the parties regarding the extent of finished area within the building. The Complainant's area analysis was refuted by the Respondent's measurements.

[15] The Board finds the parties have presented no market evidence addressing the impact of finished area within a warehouse on the market value of the property.

[16] The Board finds this to be an unsolvable matter in light of conflicting measurements of the finished area from the parties further complicated by a lack of market evidence to support any potential valuation adjustment.

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

[17] 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, Exh A-8) is not limiting as it indicates the "recommended approach" for the valuation of warehouses is "income approach or sales approach or cost approach".

[18] 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?

[19] The Complainant has provided a valuation as per the IAV based on inputs progressed through the attached analysis (starting Doc. C-1, pg 4). The Complainant's IAV calculation (Doc. C-1, pg 11) shows the following inputs:

- Rent: $9.00/square foot (sf)
- Vacancy: 3%
- Shortfall: $3.00/sf
- Capitalization rate (cap rate): 7.5%

[20] The Complainant's cap rate analysis is found under Doc. C-1, pg 8 and includes 6 sales transactions, suggesting that indicators #4 and #6 should be given limited weight. The Board finds the Complainant's analysis in whole is based on properties offering substantial variances in size (from 11,100 sf to 411,560 sf) and location (from Great Plains in SE Calgary to Westwinds in NE Calgary). The Complainant relies on a "fairly narrow band" of reported cap rates, notwithstanding the varying property characteristics.

[21] In light of the aforementioned variable characteristics the Board cannot conclude that the Complainant's market indicators operate under the same market or financial conditions as the subject property. Therefore, the Board finds they are not established as appropriate references for the purpose of providing a proper cap rate indicator for the subject property.

[22] 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 DSCA analysis produce an appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010?

[23] The Complainant has provided 4 market transactions in support of a revised assessed value (see Doc. C-1, pg 12). The following features are considered within his analysis: time; location; building size; clear wall height; tenancy type; age, and finished area.

[24] The Board finds the Complainant equally references all 4 transactions and arrives at a weighted mean sale price of $125/sf (rounded). As per the Complainant, a series of subjective adjustments are made to address the dissimilarities between these properties and the subject. The result is an adjusted sales price of $122/sf (rounded). The Board found no market data to support the Complainant's subjective adjustments.

[25] In response, the Respondent provided 2 market transactions (Doc. R-1, pg 19). With regard to the other features identified by the Respondent (parcel size; site coverage; number of buildings; year of construction; tenancy type; net rentable area; finish %, and time adjusted sale price), no details are forthcoming regarding any adjustments made within the valuation process to address dissimilarities between these properties and the subject.

[26] Within his rebuttal (Doc. C-3) the Complainant referenced information placed before the Board under file #s 60795 and 60796. The Complainant looked to 2 additional market sales as appropriate indicators for the subject property.

[27] Upon review of the cumulative market evidence before us the Board finds 2 sales best capture the location and characteristics of the subject property: (a) 2801 18 Street NE (Complainant's #1), and (b) 3700 19 Street NE (Complainant's # 3 and Respondent's #2). Lacking any market detail to support the Complainant's adjustments the Board looked to the time adjusted and otherwise unaltered market indicators produced by the Respondent (see Doc. R-1, pg 19 for (a) and Doc. C-3 pg 19 for (b)). The Board finds the median/average of these indicators is $124/sf (rounded).

[28] In conclusion, the Board finds the Complainant's DSCA analysis along with the Respondent's DSCA analysis points to $124/sf as the appropriate market value indicator for assessment purposes for the subject property as of July 1, 2010.

BOARD'S DECISION:

[29] The assessment is reduced to $2,120,000 (rounded).

DATED AT THE CITY OF CALGARY THIS 26 **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 (pt 1)
2. Doc. C-2	Complainant's Disclosure (pt 2)
3. Doc. C-3	Complainant's Rebuttal
4. 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 26 9:36 AM
To: 'dsheridan@lta.ca'
Subject: Decision 1044/2011-P

DOC002.pdf

Regards,

Chris Orsten
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