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:

Loblaw Properties West Inc. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Board Chair, M. Vercillo
Board Member 1, J. Pratt
Board Member 2, J. Massey

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: **200830875**

LOCATION ADDRESS: **55 FREEPORT BV NE**

HEARING NUMBER: **64724**

ASSESSMENT: **$72,690,000**

This complaint was heard on the 22nd day of June, 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:

- *R. Worthington*
- *J. Weber*

Appeared on behalf of the Respondent:

- *K. Buckry*
- *M. Berzins*
- *J. Young*

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

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. During the hearing, the Respondent raised the following matter:

1. That during questioning, Board Member 2, Mr. J. Massey conveyed a level of frustration with the Respondent's evidence before the Respondent had an opportunity to present it. The Respondent's Mr. Young argued that in the spirit of natural justice, a CARB should take a fair and equitable approach and hear the entire evidence presented by both parties before judging the case.

The Board Chair, Mr. M. Vercillo asked the Respondent if they were seeking any remedy with regards to this matter. Mr. Young responded that they were not but wanted the matter noted on the record. With no remedy sought by the Respondent, the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject property is a single tenanted industrial property located in the "Freeport Industrial" area of NE Calgary. According to a property overview provided by the Respondent, the subject is owned and operated by the Loblaw group and this Freeport facility is their largest Real Canadian Superstore distribution centre, supplying almost all of Western Canada. The original building's construction commenced in 2002 with occupancy being granted in August 2005. The original building contained 271,539 square feet (SF). In 2009, three new additions were added to the facility; a south addition of 135,342 SF and a west addition of 59,817 SF. These two additions added to the original structure, produce a total area of 466,698 SF. The third addition is a separate building located in the south east corner of the property and has an area of 24,837 SF including some mezzanine space. The current combined area of all structures is 491,535 SF with a net rentable area (NRA) of 505,273 SF. The buildings operate with various temperature ranges in the storage and subsequent distribution of foods. These temperature storage areas are strictly maintained but can be modified for size if necessary.

According to a City of Calgary assessment summary, the property is considered a special purpose building and is therefore assessed using the Cost Approach to value. The building is situated on an assessable land area of approximately 41.86 acres and has a building to site coverage ratio of approximately 26.80%. The property has a land use designation of "Industrial-General" (IG). The buildings are assessed using the Marshall and Swift Cost Estimator with the following breakdown:

1.	Original Building:	206,839 SF	100% Cold Storage
2.	Original Building:	64,700 SF	100% Transit Warehouse
3.	South Addition:	135,342 SF	100% Cold Storage
4.	West Addition:	59,817 SF	25% Transit warehouse, 75% Industrial Shell
5.	Reclaim Building:	24,837 SF	100% Transit Warehouse

Resulting in a Cost Approach valuation as follows:

1. Original Building:	271,539 SF	$29,269,687 (GST excluded)
2. South & West Additions:	195,159 SF	$20,041,814 (GST excluded)
3. Reclaim Building:	24,837 SF	$ 2,663,115 (GST excluded)
Improvement total:	491,535 SF	$51,974,616 (GST excluded)

The 41.86 acres is assessed at $495,000 per acre or $20,720,700.

Issues:

The CARB considered the complaint form together with the representations and materials presented by the parties. There were a number of matters or issues raised on the complaint form; however, as of the date of this hearing, the Complainant addressed the following issues as stated below:

1. The property should not be assessed on the Marshall Swift Cost Manual as a cold storage facility.
2. The subject property is a distribution warehouse that is climate controlled and should be assessed based on the Sales Comparison Approach to value.
3. Equity comparables support a revised assessment based on the Sales Comparison and Income Approaches to value.
4. The Income Approach to value supports a revised assessment based on the Sales Comparison Approach to value.

Complainant's Requested Value:

$40,900,000 on the complaint form revised to $43,160,000 at this hearing.

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

ISSUE 1:	The property should not be assessed on the Marshall Swift Cost Manual as a cold storage facility.

The Complainant provided a document entitled "Evidence Submission of Complainant" that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- That the subject property is not a special purpose building but simply a large distribution warehouse that is similar in construction and utilization with other comparable warehouses within the City of Calgary. The areas requiring chiller units and fabricated, insulated, interlocking and moveable walls are part of the "business enterprise" and should not be assessed.
- While the Complainant agreed that the subject has various temperature controlled

sections, he showed through a series of photographs, that the building(s) are essentially a typical warehouse and the temperature controlled sections are made of moveable, interlocking partitions that are easily dismantled, relocated and reassembled as the need arises without significant disruption to the face and character of the building.

- That the Respondent's Cost Approach to value of the subject was appealed last year and resulted in a decision from *CARB 1497/2010-P* that categorically rejected the Respondent's assertion that the subject was a special purpose structure and as such can only be valued using the Cost Approach. In that decision the CARB found that "...this building is not different enough to justify a separate approach to value."
- Likewise the Complainant referenced *MGB Decision D.L. 099/07* where in that decision the MGB found that the "Calgary Sun" building was also not a special purpose building and therefore was comparable to other similar type properties in the market that have sold and therefore capable of alternative approaches to value.
- That the Respondent's own evidence indicates that "Special purpose properties are designed and equipped to fulfill specific manufacturing and/or production functions." The subject does not fulfill specific manufacturing and/or production functions and is therefore by definition not a special purpose building.

The Respondent provided an "Assessment Brief" document that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- That the subject property is a special purpose building and accordingly, has been assessed using the Cost Approach to value consistently throughout its history and equitably with other "cold refrigerated warehouses" in Calgary.
- That the construction costs of the subject were much higher than for a typical warehouse within the same locality as the subject. In the example provided, the South Addition building of 135,342 SF had a building permit value of $21,500,000 or $158.86 per SF, whereas the "Trammell Crow" building, a typical 101,087 SF warehouse built in the same area and at the same time had a building permit value of $5,309,000 or $52.52 per SF. The "Hopewell" building, again a typical 93,522 SF warehouse built in the same area and at the same time had a building permit value of $5,078,700 or $54.30 per SF. The Respondent concluded this analysis by stating that "cold storage warehouses and distribution centres sometimes need to spend a littler more today for future savings and greater profit". Therefore they are built to a higher standard of infrastructure (e.g. insulation, fire rating, power, interior doors, energy efficiency, flexibility, etc.) to maximize life expectancy.
- Excerpts from the Alberta Assessors Association Valuation Guide were provided with specific reference to special purpose buildings. Within this guide, the Respondent highlighted that Special purpose properties typically possess the following characteristics:
    - Properties that typically do not rent, or where there is no rental information available.
    - Properties that do not sell, or where sale typically reflects both a business and real estate transaction.
    - Properties that typically are owner occupied and therefore do not lease.
    - Properties that typically are designed and equipped to fulfill specific manufacturing and/or production functions.
- The Respondent concluded his analysis by stating that this 500,000 SF distribution centre has no comparable in the Calgary market area and is therefore unique and contains all of the characteristics found in special purpose buildings. Therefore the Cost

Approach to value is the only plausible alternative to valuing the subject.

The CARB finds the following with respect to this issue:

- Although the subject property may not have any manufacturing or production functions, the Marshall and Swift Cost Approach to value may be an appropriate valuation methodology provided that it reflects an approximation of market value for the subject. Therefore, the CARB makes no specific determination on this issue other than where the Cost Approach to value is used (or any other valuation methodology for that matter), it must wherever possible, be supported by other evidence or methodologies to substantiate its value in the market and be equitably applied.

ISSUE 2:	The subject property is a distribution warehouse that is climate controlled and should be assessed based on the Sales Comparison Approach to value.

The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- A chart of two single tenanted and single building sales comparables was provided. The NRA of the properties were 116,556 SF and 301,930 SF, had site coverages of 57.21% and 43.75%, were constructed in 1990 and 2000 and were sold in May and August of 2009. The time-adjusted sales prices per SF were $80.12 and $85.53 with corresponding assessments per SF of $77.96 and $83.79 and a median of $80.88. There were no adjustments made for attributes that were different from the subject such as site coverage or years of construction. The Complainant concluded his analysis by using the median assessment per SF of the comparables and applying it to the subject. In doing so, the Complainant applies the $80.88 per SF median assessment rate to the subject's 505,273 NRA to derive an assessment value of $40,866,480. The Complainant also calculated and added an excess land value of $1,981,200. Combined, the Complainant calculated a total value of $42,847,680 for the subject using this Sales Comparison Approach to value.

The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A "RealNet Transaction Summary" sale of an industrial, cold refrigerated warehouse and distribution facility, transacted in May, 2010. The summary revealed that the property sold for $19,750,000 or $199 per SF with a building area of 99,202 SF and a capitalization rate (Cap rate) of 6.9%. The 2011 assessment value of this property was $19,490,657 or $196 per SF using the Marshall and Swift Cost Approach to value. The Respondent concluded that this would validate the Cost Approach to value for cold storage facilities with an assessment to sales ratio in this case, approximating 0.98.
- The Respondent argued that the two sales comparables provided by the Complainant were not cold storage facilities and therefore not comparable to the subject.

In rebuttal, **the Complainant** provided a document entitled "2011 Rebuttal Evidence" that was entered as "Exhibit C4" during the hearing. The Complainant along with Exhibit C4 provided the following evidence with respect to this issue:

- The marketing brochure of the sale of the cold storage facility introduced as evidence by the Respondent and known as the "Martin-Brower" building was provided. The Complainant noted that the sale of the building included a long-term lease that was in place at higher than current market lease rates. The Complainant argued that this attractive lease rate, typically found in cold refrigerated spaces, is what allowed this building to sell at a higher price than what otherwise might have been achieved with market lease rates. In other words, the building contains an attractive leasehold interest to a potential purchaser which is not necessarily the fee simple interest in the property. The brochure showed that the cold storage facility is 100% occupied by Martin-Brower with a 20 year triple-net lease expiring in June, 2022, with a current lease rate of $13.58 per SF escalating in July, 2012 to $14.84 per SF. This property provides distribution and logistics services to MacDonald's Canada.

The CARB finds the following with respect to this issue:

- That the use of a median time-adjusted sales price per SF for the Complainant's two Direct Sales comparables may be more appropriate in a direct sales analysis than the Complainant's use of the median assessment rates per SF for these comparables. If the median sales price per SF had been used, a median sales price per SF of $82.83 would have been derived, and would have resulted in an alternative valuation of $43,832,963, including the Complainant's calculation for excess land.
- That the Martin-Brower sales comparable used by the Respondent, may in fact include a leasehold interest in the property in excess of the fee simple estate.

ISSUE 3:	Equity comparables support a revised assessment based on the Sales Comparison and Income Approaches to value.

The Complainant along with Exhibit C1 and an additional document entitled "Comparable Property" entered as "Exhibit C2" (essentially a continuation of Exhibit C1) during the hearing provided the following evidence with respect to this issue:

- A chart of three single tenanted and single building equity comparables of similar vintage to the subject was provided. Two of the three properties presented were also used in the Complainant's sales comparable analysis referenced above under "Issue 2". The NRA of the properties ranged from 116,556 SF to 301,930 SF, had site coverages that ranged from 42.13% to 57.21%. The assessments per SF ranged from $78.07 to $98.96 with a median of $83.79. Again, there were no adjustments made for attributes that were different from the subject such as site coverage. The subject is assessed at a rate of almost $144 per SF. The Complainant provided two more charts of equity comparables, first using single tenanted buildings of older vintage than the subject and then using multi-tenanted buildings of similar vintage to the subject. The Complainant concluded his analysis by using the median assessment per SF of the single tenanted and single building equity comparables of similar vintage to the subject. In doing so, the Complainant applied the $83.79 per SF median assessment rate to the subject's 505,273 NRA to derive an assessment value of $42,336,825. The Complainant also calculated and added an excess land value of $1,981,200. Combined, the Complainant calculated a total value of $44,318,025 for the subject using this Equity Comparison Approach to value.
- 2011 assessments and photographs of two comparable properties at 5442 44 Street NE and 5500 72 Ave. SE were provided. The assessments of these two cold storage properties were also assessed using the Marshall and Swift Cost Approach and are also appealed concurrently with the subject.
- 2011 assessments and photographs of three other comparable properties were provided. The assessments of these properties were assessed using the Direct Sales Approach to value with the following attributes:

- A property at 6210 44 ST SE is a single tenanted warehouse building on a 5.98 acre site with 54.79% site coverage. It has a NRA of 146,780 SF, was built in 1995 and is assessed at $84.48 per SF.
- A property at 7704 30 ST SE is a single tenanted warehouse building on a 9.29 acre site with 50.52% site coverage. It has a NRA of 212,032 SF, was built in 1974 and is assessed at $60.00 per SF.
- A property at 7505 48 ST SE is a multi-tenanted three warehouse building property on a 25.58 acre site with 52.58% site coverage. It has a total NRA of 608,239 SF, was built in 1992 and is assessed at $63.62 per SF.

The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- The same industrial, cold refrigerated warehouse and distribution facility, sold in May, 2010 used by the Respondent in his Direct Sales Approach to value and referenced above under "Issue 2" was again provided as an equity argument. The CARB was reminded that the property sold for $19,750,000 or $199 per SF in May, 2010. The 2011 assessment value of this property was $19,490,657 or $196 per SF using the Marshall and Swift Cost Approach to value. The Respondent concluded that this would validate the Cost Approach to value for cold storage facilities with an assessment to sales ratio in this case, approximating 0.98 and therefore the subject assessment of almost $144 per SF is equitably assessed.
- The Respondent argued that except for the comparables which are appealed concurrently with the subject, none of the equity comparables provided by the Complainant were cold storage facilities and therefore not comparable to the subject.

The CARB finds the following with respect to this issue:

- That like in the previous issue, the Martin-Brower property sale used as equity comparable by the Respondent, may in fact include a leasehold interest in the property in excess of the fee simple estate.

ISSUE 4:	The Income Approach to value supports a revised assessment based on the Sales Comparison Approach to value.

The Complainant along with Exhibit C1 and an additional document entitled "Industrial Capitalization Rate Analysis 2011 Assessment Year" entered as "Exhibit C3" during the hearing provided the following evidence with respect to this issue:

- A chart of five single tenanted warehouse equity comparables was provided. One of the five properties presented were also used in the Complainant's sales and equity comparable analyses referenced above under "Issue 2" and "Issue 3". The NRA of the properties ranged from 99,000 SF to 459,275 SF, with lease start dates from May, 2007 to August, 2009. The base rents per SF ranged from $6.45 to $7.30 with a median of $6.65. The Complainant concluded his analysis by using the median base rent of $6.65 per SF to the subject's 505,273 NRA. Along with a vacancy rate of 5.0% and a Cap rate of 7.75% a revised assessment value of $41,187,899 was calculated. The Complainant also calculated and added an excess land value of $1,981,200. Combined, the Complainant calculated a total value of $43,169,099 for the subject using this Income Approach to value.
- The Cap rate study entered as Exhibit C3 was provided. According to the study, the Complainant reviewed sales of industrial properties that occurred between January,

2009 and July 2010. The conclusion drawn from this study by the Complainant was that typical market cap rates was 7.75% for newer or "A' properties and 8.25% for older or "B" properties. A Colliers cap rate study was also referenced in the document where they found that Cap rates ranged from 6.75% to 7.25% in the second quarter of 2010.

The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- That cold refrigerated lease rates tend to be much higher than typical distribution warehouse rates. The Complainant's equity comparable at 5442 44 Street NE supported this finding where the cold storage side of this two tenant building leased at a rate of $13.15 per SF while the non-cold storage side leased for $5.95 per SF.
- The Respondent again argued that none of the income comparables provided by the Complainant were cold storage facilities and therefore not comparable to the subject.

The CARB finds the following with respect to this issue:

- As in the finding under "Issue 1", the Income Approach to value may be an appropriate valuation methodology provided that it reflects an approximation of market value for the subject. In this case, the Complainant's Income Approach to value tends to lend support to the Complainant's Direct Sales Approach to value.

Board's Decision:

The complaint is accepted in part and the assessment is adjusted to $43,830,000 on the basis of the revised Direct Sales Approach to value calculation using the median sales price per SF of $82.83.

- In the opinion of the CARB, the Complainant was sufficiently able to demonstrate that the subject property was not materially different from other typical warehouse properties. While the CARB agrees that the subject property may have been built to a higher standard there was no evidence that these attributes would be adequately recognized in the market and garner a higher value for the subject if it were put on the market for sale.
- As was found in the decision *CARB 1497/2010-P*, "There is no evidence to convince the Board that the existing Tenant could not relocate to alternative premises without undue hardship or time delays". The subject property in its current use contains moveable partitions and compressors that can be reconfigured within the current structure or moved entirely to an alternative site. If the partitions and compressors were moved to an alternative site, the subject property has little more to offer than a typical warehouse other than its size. Therefore, the Respondent's use of an alternative valuation approach such as the Cost Approach is not justified.
- The Complainant was able to establish support for his Direct Sales Approach to value with alternative approaches to value such as the Income Approach and the Equity Approach. The Respondent was not sufficiently able to challenge or contradict these approaches in any material way.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July 2011.

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure, Pages 1 to 107
2. C2	Complainant Disclosure, Pages 107 to 202
3. C3	Complainant Disclosure
4. R1	Respondent Disclosure
5. C4	Complainant Rebuttal
6. C5	Complainant Rebuttal, Pages 1 to 72
7. C6	Complainant Rebuttal, Pages 73 to 142

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.