

**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:

***Sun Life Assurance Company of Canada
(as represented by MNP LLP), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
A. Huskinson, MEMBER
R. Kodak, 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:	009020702
LOCATION ADDRESS:	6732 8 ST NE
HEARING NUMBER:	65885
ASSESSMENT:	\$12,480,000

This complaint was heard on the 16th day of July, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Mr. M. Uhryn Agent, MNP LLP

Appeared on behalf of the Respondent:

- Mr. I. McDermott Assessor, City of Calgary

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

[1] There were no procedural or jurisdictional matters raised by the parties during the hearing.

Property Description:

[2] The subject property is a multi tenant warehouse, located in Dufferin Industrial, commonly known as the Harris Building. The assessable building area is 111,501 sq. ft. and it is situated on 9.65 acres. The building was constructed in 1990; has 36% finish and a site coverage ratio of 28.06%. The land use designation is I-G, Industrial General. The subject property was assessed based on the Direct Comparison Approach at \$111.93 psf.

Issues:

[3] The current assessment does not reflect tenant improvements which affects 69,736 sq. ft. of area within the subject property.

Complainant's Requested Value:

[4] The Complainant requested an assessment of \$10,927,098 or \$98 psf for the subject property.

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

[5] The Complainant submitted that the current assessment for the subject property does not address the tenant improvements which affect 69,736 sq. ft. of area. He provided several interior photographs of the subject property taken on December 16, 2011 in support of his argument that not all of the space within the subject property was rentable in 2011 (Exhibit C1 pages 21 – 34). Several of the photographs depict empty warehouse bays, consisting of cement floors and drywall, an exposed brick wall, open ceilings with florescent lighting, and doors. One of the photographs depict a smaller, finished room (similar to an office), with a piece of equipment or machinery in the centre of the room. It is these areas that the Complainant argued were not taken into consideration when assessing the property, and warrants a reduction to the assessment.

[6] The Complainant submitted that the property assessment should reflect the characteristics and physical condition of the property as of December 31, 2011, which includes an adjustment for tenant improvements and cited CARB 1485/2011-P in support of his position

(Exhibit C2 pages 4 – 8). The Complainant requested that a deduction of \$50 psf should be applied to capture the tenant improvement allowance for the subject property. He indicated that past Board decisions have included a 50% reduction to the assessed rate; \$75/\$50 psf for unimproved areas; or \$5.00 psf off the base rate. The Complainant also indicated that assessors in the past have applied similar reductions (Exhibit C1 page 43).

[7] The Complainant submitted 14 sales comparables of warehouses of +100,000 sq. ft. to further support the assessed request of \$98 psf (Exhibit C1 pages 45 & 48). He extracted three of those sales comparables, one of which included the sale of the subject property, in support of his request (Exhibit C1 page 49). The Board has reproduced that chart, in part, for ease of reference:

Location	Sale Date	Sale Price (PSF)	2012 ASMT (PSF)	Assessable Building Area (SF)	YOC	Class	Site Coverage %	Finish %	Additional or Excess Land
6732 8 ST NE	27-AUG-08	\$152	\$112	111,501	1990	B	26.52	36%	E
3905 29 ST NE	21-OCT-10	\$79	\$83	96,804	1981	C+	43.84	27%	N
930 64 AV NE	2-MAR-11	\$98	\$96	128,693	1997	B	46.18	8%	N

Minimum	\$62	\$58
Maximum	\$152	\$112
Average	\$98	\$88
Median	\$98	\$85

** This Chart is reproduced from the Complainant's submission.*

[8] The Respondent submitted that no tenant allowance is warranted for the subject property, and that the entire space is rentable. He argued that this matter is simply one of a tenant vacating the premises; however, the area is finished and rentable. He argued that the Complainant failed to substantiate how he derived the values for the tenant allowance. Moreover, CARB 1485/2011-P is distinguishable from the case at hand because that decision related to a downtown office building. The Respondent submitted the Assessment Request for Information ("ARFI") for the subject property dated March 13, 2010 (Exhibit R1 page 20). The ARFI shows that one of the areas comprised of 46,870 sq. ft. has been vacant since November 2009; another area comprised of 25,393 sq. ft. was vacated by the tenant prior to the expiry of a six year lease, which had originally commenced in April 2006.

[9] The Respondent provided three sales comparables in support of the current assessment, including the sale of the subject property and the comparable located at 930 64 AV NE, which were utilized in the Complainant's analysis (Exhibit R1 page 9). The Board has reproduced that chart for ease of reference, in part, as follows:

Location	Parcel Size	Assessable Building Area (SF)	YOC	Finish %	Site Coverage %	Sale Date	Sale Price	TASP	TASP/ SF
6732 8 ST NE	9.65	111,501	1990	36%	26.52	27-Aug-08	\$16,990,530	\$14,049,285	\$126.00
2340 22 ST NE	4.44	116,566	1990	5%	57.22	1-May-09	\$9,450,000	\$8,959,006	\$76.86
930 64 AV NE	6.40	118,402	1997	9%	42.54	2-Mar-11	\$12,600,000	\$12,440,729	\$105.07

** TASP is the Time Adjusted Sale Price.*

[10] The Respondent argued that the current assessment for the subject property (\$112 psf) falls within that range of values (\$77 - \$126 psf) and should be confirmed.

[11] In rebuttal, the Complainant submitted a building permit status record for the subject property to illustrate that the area was not rentable due to renovations (Exhibit C2 page 9 & 10).

[12] The Board finds the Complainant failed to produce sufficient information to bring the assessment into question. While the Complainant submitted several interior photographs of the subject property and argued the vacant bays could not be leased to prospective tenants based on their condition as of December 2011, the Board finds the photographs contradict the Complainant's testimony. The Board finds the photographs depict warehouse bays that are in above standard condition, arguably superior condition, and based on the photographs the Board could not foresee any reason why these bays could not have been occupied by prospective tenants in December 2011.

[13] Based on the evidence, the Board cannot discern the basis for the Complainant's request of a \$50.00 psf tenant improvement allowance. The Board placed little weight on the building permit status record as there was no evidence of interior renovations that had taken place within the subject property, if any, and there was no relationship established between the permit value and his request. Moreover the subject property's ARFI (albeit 2010) does not reflect leasehold improvement allowances. As such, the Board finds there was insufficient evidence to warrant a reduction based on a tenant inducement. The ARFI did reveal a significant amount of space that has been vacant since 2009 (46,870 sq. ft.) but no request or argument was presented to the Board in regards to chronic vacancy.

[14] In regards to the market evidence, both parties submitted the sale of the subject property and the comparable property located at 930 64 AV NE in support of their respective positions. The Board preferred the Respondent's time adjusted sale price applied to the comparables, particularly the sale of the subject property (\$126 psf) as it is a dated sale (2008). No time adjustment was offered by the Complainant, but given the volatility of the market over the last several years, one likely should have been adopted.

[15] The Board is particularly concerned with the number of discrepancies in the data reported in the Complainant's evidence, especially in light of similar errors in his submissions over the course of a week (July 16 – 19, 2012) before the same panel. In this case, the data errors were as follows:

- The minimum sale price and assessed rate were reported as \$62 psf and \$58 psf as opposed to \$79 psf and \$83 psf.
- The average sale price and assessed price were reported as \$98 psf and \$88 psf as opposed to \$110 psf and \$97 psf.
- The building area for the comparable located at 930 64 AV NE was reported as 128,693 sq. ft. as opposed to 118,402 sq. ft.
- The sale price for 930 64 AV NE was reported as \$98 psf as opposed to \$106 psf.
- The data correction for 930 64 AV NE would change the overall average reported in the Complainant's sales chart from \$98 psf to \$112 psf and median from \$98 psf to \$105 psf.

[16] Once the data errors are corrected, the Complainant's market evidence supports the current assessment of the subject property.

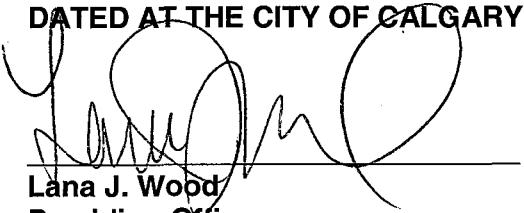
[17] It could be interpreted that data errors contained within a party's submission are due to a party's oversight or carelessness. However, given the number of errors and the repetition of data errors inserted in a party's submission, it is inconceivable that it is a result of a party's oversight or carelessness. It is conceivable that numerous data errors are placed intentionally throughout a submission, with the hope that the Board will rely upon incorrect data in arriving at its final decision, one in which is favourable to the offending party. This is a serious concern to the Board and it warns the Complainant, that if this trend continues in the submissions that he presents to the Board, costs will be issued.

[18] No further analysis of the matter is warranted.

Board's Decision:

[19] The decision of the Board is to confirm the 2012 assessment of \$12,480,000 for the subject property.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF OCTOBER 2012.



Lana J. Wood
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Evidence
2. C2	Complainant's Rebuttal
3. R1	Respondent's Evidence

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

Subject	Property Type	Property Sub -Type	Issue	Sub - Issue
CARB	Warehouse	Warehouse Multi Tenant		