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:

Dundee Flex Properties INC. (as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER
K. Coolidge, MEMBER
J. Rankin, 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:	**049017502**
LOCATION ADDRESS:	**2985 – 23 AV NE**
HEARING NUMBER:	**66248**
ASSESSMENT:	**$6,570,000**

This complaint was heard on 8th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *Mr. T. Howell – Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *Mr. J. W. Ehler - Assessor – City of Calgary*

REGARDING BREVITY:

[1] The Composite Assessment Review Board (CARB) reviewed all the evidence submitted by both parties. The extensive nature of the submissions dictated that in some instances certain evidence was found to be more relevant than others. The CARB will restrict its comments to the items it found to be most relevant.

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

[2] None.

Property Description:

[3] The subject is a 53,127 square foot (SF) single-tenant industrial warehouse constructed circa 2000 on 3.05 acres (Ac.) of land in the Sunridge (2) industrial area. The subject has 53,127 SF of assessable space, 100% finish, 40.00% site coverage, and is valued at $123.84 per SF using the Market Sales Comparison Approach to value, for an assessment of $6,570,000.

[4] **Issue:**

Given the apparent paucity of market sales in the current assessment cycle, what is the correct market value of the subject based on the Income Approach to Value?

Complainant's Requested Value:

[5] $6,240,000 (revised). (note: initial submission $5,250,000)

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

[6] The Complainant argued that there was a paucity of market sales in the current assessment cycle and therefore the City has erred in assessing the subject using the Market Sales Comparison Approach. He argued that because of this situation, the Income Approach to Value methodology must be used to more accurately determine the subject's market value. He clarified that he would focus on the key input variables of rent, vacancy, and Capitalization Rate (cap rate).

[7] The Complainant clarified that he had initially calculated the value of the subject using the Income Approach on the basis of a $9.25 per SF rent. However, he provided the rent roll for the subject which identified a rent for the only tenant of $9.50 per SF. He declared therefore that it was more correct to use the site-specific $9.50 per SF for his Income calculation.

[8] The Complainant supported his $9.50 per SF rent selection by displaying in a matrix what he considered to be three other "typical" 2010 market rents for similar space – plus the subject's 2011 lease. The leased space comparables were said to be in three other similar nearby buildings owned by Dundee. However, the Complainant did not provide the rent rolls for any of the three comparative buildings. He noted that the four rents in this matrix ranged from $7.00 per SF to $10.00 per SF - the subject he thought to be $9.25 per SF until his subsequent correction.

[9] The Complainant also included one additional 2010 rent for $6.75 per SF from what he called a "non-Dundee building". The leased bay areas of the three "Dundee" spaces ranged from 10,240 SF; to 10,555 SF; to 12,800 SF; whereas the subject he identified as an entire building of 53,110 SF, although the City evidence identifies the subject as 53,127 SF. The non-Dundee building is 23,466 SF. The Complainant argued that this evidence also supported his decision to use $9.50 per SF in his "Income Approach to Value" calculation.

[10] The Complainant presented an excerpt of a Colliers International Q2 2011 Industrial Market Report for Calgary which noted that a "typical" industrial vacancy rate for the Sunridge area of Calgary was 5.57%. He opted to use this value in his "Income" calculation.

[11] The Complainant provided the RealNet summary sheets for three market sales of industrial properties – all from NE Calgary, which he considered similar to the subject. Sale #1 at 1826 – 25 AV NE occurred May 2011. Sale #2 at 1245 – 28 ST NE occurred December 2010. Sale #3 at 700 – 33 ST NE occurred May 2011.

[12] The Complainant also placed the details of each sale in a matrix, which revealed three Capitalization Rates (cap rates) of 7.45 %; 7.6%; and 8.5% respectively. He concluded from analysis of these three sales that a "stabilized" 7.50% was an appropriate "typical" cap rate to use in his revised calculation of value for the subject.

[13] Therefore, using the Income Approach to Value methodology, and applying as inputs to that calculation, values of $9.50 per SF for rent; 5.57% for vacancy rate; a 7.50% cap rate; and a self-calculated Net Operating Income (NOI) of $467,063, the Complainant calculated that the assessed value of the subject should be $6,240,000.

[14] The Complainant provided a copy of Assessment Review Board decisions CARB 1014/2011-P and CARB 1053-2010-P, which he considered supported his position that the Income Approach is preferable to a Market Sales Comparison Approach when the former is well-founded in market evidence.

[15] Based on his Income Approach to Value calculations, the Complainant requested a revised assessment of $6,240,000.

[16] The Respondent argued that the Complainant's basic premise regarding this appeal is fundamentally flawed since there is an abundance of market sales of comparable industrial properties, many similar to the subject. He noted that in the current assessment cycle the City has identified 160 valid market sales of industrial properties, all of which have been posted on the City's website and could have been accessed by the Complainant. Therefore he argued, there is no need to use an Income Approach to value the subject. The City has used the Market Sales Approach to value this property, and all others like it.

[17] The Respondent provided a matrix displaying three market sale property comparables, with sale values ranging from $100.10 per SF to $149.39 per SF. He argued that the assessment of the subject at $123.84 per SF, fits well within this range of values. He identified the individual site characteristics of each of the four comparables, and argued that they not only effectively matched each other, but also matched the subject, thereby supporting its assessment.

[18] The Respondent argued that while the City has valued the subject using the market sales comparison approach to value, the Complainant has not provided any market sales, or data, or analysis thereof to specifically target and refute the City's estimate of value using this methodology, in this appeal. He argued that the Complainant has not provided any argument or evidence that the three market sale comparables used by the City to support the value of the subject are inappropriate or otherwise not comparable.

[19] The Respondent argued that the Complainant has merely taken the position that there have been insufficient market sales in the current assessment cycle, and therefore opted to value the subject using the Income Approach. He repeated that the Complainant's position is therefore fundamentally flawed.

[20] The Respondent also argued that the application of the Income Approach as completed by the Complainant is also fundamentally flawed, and the results are therefore invalid and unreliable. He argued for example that while the Complainant has provided a tenant rent roll for the subject to support his $9.50 per SF rent, he has not provided any tenant rent rolls to support the three other rents he selected as being "typical" from his comparable properties. Therefore, he argued, it is not possible from the extremely limited information he provided, to determine either the validity or comparative accuracy of this data.

[21] The Respondent provided the rent rolls from the Complainant's three property comparables, and argued that unlike the Complainant, he considered a lease renewal rent value to be a valid indicator of current market conditions. He argued that the three leases indicated much higher rents than the $9.50 per SF used by the Complainant.

[22] The Respondent clarified however that he considered the Complainant's use of the Colliers' typical vacancy rate of 5.57%, to be an appropriate value to use in a hypothetical Income Approach to Value calculation which he had prepared for the subject.

[23] The Respondent argued that the Complainant's selection of a 7.5% capitalization rate based on three market sales of properties, which, in his view, are quite dissimilar to the subject, is completely arbitrary and inapplicable to the subject. He noted that the subject displays several site and improvement characteristics which are substantially different from the Complainant's three market sale comparables. Factors such as building construction, site

coverage, age; finish; size; assessable building area; multi VS single building on one lot; and land adjustment for example, he considered all affect market value for these three properties.

[24] The Respondent noted that the Complainant's property comparable at 1826 - 25 AV NE for example, has two buildings onsite – unlike the subject's one building, and is 20 years older than the subject. He argued therefore that these three properties are not comparable to the subject, and hence the cap rate derived from analysis of their sales is not applicable to the subject. He also noted that the RealNet sheets for each sale, as provided by both the Respondent and the Complainant, identifies that the cap rate for each sale is "estimated", a key point which conveys uncertainty, and suggests that the indicated values may not be reliable.

[25] The Respondent also argued that in preparing his Income Approach calculations, the Complainant has mixed "actual" and "typical" values, which is an approach that is contrary to accepted appraisal practice. Therefore he argued, the results are considered to be unreliable.

[26] The Respondent provided a letter dated January 1, 2010 from Colliers International which identified that a professional "*valuation analysis in order to estimate its current market value.....as at December 31, 2010*" had been completed for an adjacent somewhat identical Dundee industrial property at 2151 – 32 ST NE. The value of the adjacent site by Colliers was estimated to be $8,750,000. The Respondent noted that not only was this value stated to be current as of 6 months before the valuation date of July 1, 2011, but it was also $2,180,000 more than the subject's current 2012 assessment of $6,570,000. He argued that his information supports the assessment of the subject because the buildings are essentially identical.

[27] The Respondent clarified that in order to <u>test</u> both the City's assessed value of the subject as obtained by the Market Sales analysis approach, and the Complainant's Income Approach valuation, he had calculated a hypothetical "Income Approach to Value test". He argued that the test demonstrates that the Complainant's alternate calculations of value using his Income Approach are either incorrect, or, when calculated with more correct inputs, support the subject's assessment.

[28] The Respondent argued that in his hypothetical calculation he considered a 7% cap rate to be appropriate since it was supported by a Colliers Q2 2011 Cap Rate Report showing industrial multi-tenant buildings in Calgary selling at cap rates of 6.5% to 7%. He provided an excerpt of that report.

[29] The Respondent argued therefore that in his hypothetical Income Approach calculation, and based on the $9.50 per SF rent used by the Complainant; a 5.57% vacancy rate; and a 7% cap rate, the indicated value of the subject using this methodology was $6,670,000 which completely supports the City's market sales based assessment of $6,570,000.

[30] The Respondent also argued that this hypothetical exercise demonstrates that the Complainant's Income valuation is flawed and unreliable because of the arbitrary and/or incorrect inputs used in his calculation.

[31] The Respondent requested that the assessment be confirmed at $6,570,000.

Board Findings

[32] The Board finds that the subject has been assessed using the Market Sales Approach to Value methodology and not the Income Approach to Value methodology because contrary to the Complainant's assertions, there were at least 160 valid market sales of comparable industrial properties in the current assessment cycle, against which comparisons of the subject may be made.

[33] The Board finds that the Complainant does not appear to have accessed the City's database of 160 market sales of comparable industrial properties for the purposes of this complaint, despite the sales being readily available on the City's website since he opted to argue that there were insufficient market sales in the current assessment cycle.

[34] The Board finds that there are a sufficient number of market sales which occurred within the current assessment cycle such that the City has not, as alleged by the Complainant, erred in using the market sales approach to value the subject.

[35] The Board finds that the Complainant provided no argument or alternate market sales evidence to refute or otherwise critique the three fully-adjusted market sale comparables used by the Respondent to value the subject. These three property comparables support the assessment.

[36] The Board finds that the adjacent Dundee property at 2151 – 32 AV NE which Colliers International appraised at $8,750,000 as of December 31, 2010 in the current assessment cycle, is in fact very similar to the subject as argued by the Respondent, and the appraised value of this building supports the assessment of the subject as fair and equitable.

[37] The Board finds that the Income Approach to Value calculation prepared by the Complainant is flawed for three reasons:

1. the rent value of $9.50 per SF used by both the Complainant and Respondent) is too low compared to the current rents and renewals in the Complainant's property comparables, as revealed by the Respondent's tenant rolls, and,
2. the capitalization rate calculated at 7.5% by the Complainant, is based upon "estimated" cap rates for properties which, are significantly older than, and whose several individual characteristics are not comparable to the subject, and,
3. the Complainant has incorrectly inserted a mixture of "actual" and "typical" values in his calculations of alternate value, a procedure which is considered to be contrary to accepted appraisal practice and leads to unreliable results.

[38] The Board finds that the facts in the two Board decisions CARB 1014/2011-P and ARB1053-2010-P as advanced by the Complainant are materially different from those before the Board today, and hence they are inapplicable to the issues before this Board.

[39] The Board finds that the Respondent's hypothetical "test" calculation of alternate value using the Income Approach, the Complainant's $9.50 rent, and "typical" values for vacancy and Cap Rate, demonstrate support for the assessment. The Board is aware that the "typical" 7% cap rate used by the Respondent in this calculation is the key variable in this equation.

[40] The Board finds that while it may have regard to previous CARB decisions, it is not bound by them and must decide the merits of this appeal on the basis of the evidence and argument provided at this hearing.

Board's Decision:

[41] The assessment is confirmed at $6,570,000.

DATED AT THE CITY OF CALGARY THIS 4 **DAY OF** September **2012.**

K. D. Kelly
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C-1	Complainant Disclosure
2. R-1	Respondent 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.

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Appeal Type	Property Type	Property Sub-type	Issue	Sub-Issue
CARB	industrial	Single-tenant	Market value	Income VS Market Approach methodology