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:	**049015605**
LOCATION ADDRESS:	**2121 – 29 ST NE**
HEARING NUMBER:	**66247**
ASSESSMENT:	**$7,370,000**

This complaint was heard on 9th 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 57,050 square foot (SF) multi-tenant industrial warehouse built circa 2000 on 3.83 acres (Ac.) of land in the Sunridge (2) industrial area. The subject has 57,050 SF of assessable space, 50% finish, 34.19% site coverage, and is valued at $129.23 per SF using the Market Sales Comparison Approach to value, for an assessment of $7,370,000.

[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?

[5] **Complainant's Requested Value:** $5,810,000.

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 provided the rent roll for the subject which identified two current and valid rent renewals of $12.50 per SF and $16.00 per SF for the subject's two tenants. The Complainant argued that it is inappropriate to use rents from lease renewals as they were not necessarily indicative of the market because certain incentives to re-sign may have been given by the landlord which would render the rents to be questionable as to their applicability to the broader market.

[8] The Complainant declared therefore, that for his Income Approach calculation for the subject, he had selected a rent of $8.25 per SF – a rent known to be charged in similar nearby buildings owned by Dundee pursuant to an examination of their rent rolls which he supplied.

[9] The Complainant supported his $8.25 per SF rent selection by displaying in a matrix what he considered to be four "typical" 2010 and 2011 market rents for similar space in four other similar nearby buildings owned by Dundee. He also provided the rent rolls for the four buildings. The four rents in this matrix ranged from $7.00 per SF to $10.00 per SF.

[10] The Complainant also included one additional rent for $6.75 per SF from what he called a "non-Dundee building". The sizes of the four "Dundee" bay spaces ranged from 5,430 SF, to 10,240 SF, to 10,555 SF and 12,800 SF. The non-Dundee building is 23,466 SF. The Complainant argued that this evidence supported his decision to use $8.25 per SF in his "Income Approach to Value" calculation.

[11] 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.

[12] The Complainant provided the RealNet summary sheets for five market sales of industrial properties – all but one from NE Calgary, which he considered similar to the subject. Sale #1 at 1415 – 28 ST NE occurred December 16, 2010. Sale #2 at 1826 – 25 AV NE occurred May 2011. Sale #3 at 3905 – 29 ST NE occurred October 2010. Sale #4 at 2200 – 41 AV NE occurred May 2010. And sale #5 at 10905 – 48 ST SE occurred April 2010.

[13] The Complainant also placed in a matrix, the details of each sale, which revealed five Capitalization Rates (cap rates) of 7.34%; 7.38%; 8.04%; 6.9%; and 7.25% respectively. He concluded from analysis of these five sales that a "stabilized" 7.50% was an appropriate "typical" cap rate to use in his revised calculation of value for the subject.

[14] Therefore, using an $8.25 per SF rent; a 5.57% vacancy rate; a 7.50% cap rate; and a self-calculated Net Operating Income (NOI) of $435,558, the Complainant calculated that the assessed value of the subject should be $5,807,436 or $101.80 per SF.

[15] The Complainant provided copies of Assessment Review Board decisions CARB 1014/2011-P and ARB1053-2010-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.

[16] The Complainant requested a revised assessment of $5,810,000,

[17] 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.

[18] The Respondent provided a matrix displaying four market sale property comparables, with sale values ranging from $96.95 per SF to $149.39 per SF. He argued that the assessment of the subject at $129.23 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.

[19] 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 four market sale comparables used by the City to support the value of the subject are inappropriate or otherwise not comparable.

[20] 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.

[21] The Respondent also argued that the application of the Income Approach as completed by the Complainant is also fundamentally flawed, and the results he has achieved using it, are therefore invalid and unreliable. He argued for example that while the Complainant has provided tenant rent rolls to support the five rents he selected as being "typical" from his comparable properties, he has ignored the more recent rent renewals in the subject and others, which are higher than $8.25 per SF and indicate a typical lease value closer to $10 per SF, in order to justify the $8.25 per SF rent portion of his Income calculation.

[22] The Respondent also provided the tenant (rent) rolls from the Complainant's five property comparables, and argued that these rent rolls identify several much higher rents in these sites that also did not appear to have been used by the Complainant. He noted for example that a $10 per SF "typical" rent would have been more appropriate. He also argued that unlike the Complainant, he considered a lease renewal rent value to be a valid indicator of current market conditions. He puzzled as to why the Complainant had opted to select the single, less expensive, actual rent of $8.25 per SF for one bay in one of his property comparables for his calculations of alternate value for the subject.

[23] The Respondent clarified that he considered the Complainant's use of Colliers' typical vacancy rate of 5.57% to be appropriate. However, he considered the Complainant's selection of a 7.5% capitalization rate based on five market sales of properties, in his view, quite dissimilar to the subject, to be completely arbitrary and inapplicable to it. He noted that the subject is either superior to, or displays site characteristics substantially different from most of

the Complainant's five market sale comparables in terms of factors such as site coverage, age; finish; size; assessable building area; multi VS single building on one lot; and land adjustment – all of which affect value for these five 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 over 18 years older than the subject. He argued therefore that these five 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 should not be relied upon.

[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 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 $1,380,000 more than the subject's current 2011 assessment of $7,370,000. He argued that his information supports the assessment of the subject because the buildings are virtually identical.

[27] The Respondent clarified that in order to test 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 two hypothetical "Income Approach to Value tests" – both of which demonstrate that the Complainant's alternate calculations of value using his Income Approach are incorrect.

[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 calculation and based on a $10 per SF rent; a 5.57% vacancy rate; and a 7% cap rate, the indicated value of the subject using this methodology was $7,533,512 – higher than the subject's assessment of $7,370,000.

[30] The Respondent also argued that in order to arrive at the Colliers appraised value of $8,750,000 in his second hypothetical calculation, he needed to use rents of $11.50 per SF which produced a value of $8,690,000. Therefore he argued, these two hypothetical exercises demonstrate 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 provided copies of Composite Assessment Review Board Decisions CARB 1302/2011-P and CARB 1033/2011-P which he argued supported the City's position in this appeal. The Respondent requested that the assessment be confirmed at $7,370,000.

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 four fully-adjusted market sale comparables used by the Respondent to value the subject. These four 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 four reasons:

1. the rent value of $8.25 per SF is too low compared to the current rent renewals in the subject, and in the Complainant's property comparables, as revealed by the tenant rolls, and,
2. the capitalization rate calculated at 7.5% by the Complainant, is based upon "estimated" cap rates for properties which, in some cases are 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.
4. Board decisions CARB 1302/2011-P and CARB 1033/2011-P as advanced by the Respondent support and confirm point #3 above.

[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 calculations of alternate value using the Income Approach and primarily "typical" values for rents, vacancy, and Cap Rates, demonstrate support for the assessment.

[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 evidence and argument provided at this hearing.

Board's Decision:

[41] The assessment is confirmed at $7,370,000.

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	Multi-tenant	Market value	Income VS Market Sales methodology