

**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:

1332144 Alberta Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

J. Mathias, MEMBER

A. Zindler, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	031510662
LOCATION ADDRESS:	213, 3825 – 34 Street N.E.
HEARING NUMBER:	60827
ASSESSMENT:	\$257,000

This complaint was heard on 29th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Bobby Kailey*

Appeared on behalf of the Respondent:

- *Wanda Wong*

Procedural or Jurisdictional Matters:

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board and constituted to hear the matter. No jurisdictional or procedural matters were raised at the onset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is located at 213, 3825 – 34 Street N.E. in the Horizon Industrial District. The area is a mix of light industrial, office and commercial uses. The subject property is in an industrial/office type of condominium building built in 1999. The lower level is predominantly light industrial uses, with the upper level developed into office condominium units. The subject unit is located on the upper floor, and is 1.097 square feet (ft²).

The subject property is assessed at \$234/ft² using the Direct Comparison Approach.

Issues:

1. What is the appropriate market value of the subject property for assessment purposes?

Complainant's Requested Value:

\$189,500

(based on actual purchase price in May 2010)

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

The two parties agreed on all facts related to the subject property except for its market value for assessment purposes.

1. What is the appropriate market value of the subject for assessment purposes?

The Complainant presented evidence showing that he had purchased the subject property on May 31, 2010 for a price of \$189,500. The property was listed through a Realtor and marketed via the Calgary Multiple Listing Service (MLS). The property had been on the market for about ninety days (subject listed on January 30, 2010) before the Complainant made an offer to purchase the property. The property was listed for \$209,000. The original offer was for \$190,000 and accepted on April 24, 2010, but then amended on May 2, 2010 and purchased at \$189,500. The evidence presented (Exhibit C1) included a copy of the Commercial Real Estate Contract and the Amendment to the Real Estate Purchase Contract, Notice of the Waiver (satisfaction of conditions) and a copy of the deposit cheque. Through questions by the Board, the Complainant indicated that the property was purchased at arms-length, and that there were no unusual circumstances affecting this sale. There was a tenant in place when the property was purchased, but that lease has since expired and the Complainant is now occupying the property. It was the Complainant's position that the sale of this property reflected the market value of the subject as of July 1, 2010.

The Respondent stated that the subject was assessed as an office condominium – upper floor unit at \$257,000 (assessed at a rate of \$234/ft²). Five equity comparables (page 12, Exhibit R1) were presented to demonstrate that the assessed rate per ft² for this type of property ranged from \$202 to \$242. Three of these five comparables were from the subject building, although smaller units than the subject. The other two comparables were both from the another building, and were considerably larger than the subject.

The Respondent also presented three sales comparables (page 13, Exhibit R1). Because of lack of sales in the subject area, the three sales comparables were from other districts in the NE quadrant of the City, all newer buildings and all larger units. The subject sold for \$172/ft² while the comparables sold in a range of \$195/ft² to \$285/ft². The Assessment to Sales Ratio (ASR) was 1.35 for the subject and ranged from 0.83 to 1.03 for the comparable sales. The Respondent indicated that the subject sale was not used in the City's data, because it was considered an "outlier". In other words, it sold at too low a price compared to the other sales in the data set, so was not considered a "good comparable sale". The Respondent could not provide any reasons as to why the price was lower than the sales data used by the City in its assessment model, nor why the subject sale should not have been part of the data set used by the City in their assessment model.

Board's Decision:

The Board heard evidence that the subject sale occurred at arms-length, and was a brokered transaction after the property had been adequately exposed to the market. The Board concluded that this sale represents the market value of the subject property at the time of sale (May 2010), which was very close to the valuation date of July 1, 2010.

The Respondent's comparable sales do not appear to be comparable to the subject, as the price paid for these comparables was considerably more than what was paid for the subject. No reason was provided for this difference in price. The Respondent did not inspect or view the subject or the comparable sales. The Board notes that these comparable sales were for larger properties, in newer buildings, and that two of the sales occurred in early 2009.

The comparable sales should reflect the characteristics of the subject property type, and the model should then be allowed to determine appropriate adjustments. It is therefore important to have the comparable sales data reflect all the "good sales" for that type of property to provide a valid indication of assessed value. Sales that are considered "outliers" should be examined before they are rejected. If the sale price of the "outliers" is due to some atypical factor, then it is appropriate to disregard that sale. However, if upon examination a sale is determined to be at arms-length and meets the test of fair market value, then it should be used in the data set. Rejecting "outliers" on sale price alone may tend to skew the results of the modelling.

The Complainant's evidence, the sale of the subject property at very near the valuation date for assessment purposes, is compelling and is in the opinion of the Board the best indication of the subject's market value. The Respondent's comparable sales data is limited. The three sales comparables provided do not appear to be similar to the subject. No reason was provided by the Respondent as to why the subject sale price was "atypical" or "too low compared to the market." Therefore, the best indication of value is the sale price of the subject. For this reason, the Board reduces the assessment to \$189,500.

Board's Decision:

The Board reduces the assessed value to \$189,500.

DATED AT THE CITY OF CALGARY THIS 12 DAY OF AUGUST 2011.



Ivan Weleschuk
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	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.*