

**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:

Westpen Properties Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

J. Rankin, MEMBER

J. Joseph, 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: | 031023401 |
| LOCATION ADDRESS: | 2728 Hopewell Place N.E. |
| HEARING NUMBER: | 63717 |
| ASSESSMENT: | \$21,190,000 |

This complaint was heard on 26th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *Jan Goresht*

Appeared on behalf of the Respondent:

- *Christina Neal*

Procedural or Jurisdictional Matters:

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. 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 is a 7.88 acre improved property located at 2728 Hopewell Place N.E., in the Horizon community. This area is a mix of office, warehouse and retail properties located east of Barlow Trail and south of McKnight Blvd. The 128,554 square foot subject building was constructed in 2000, is in an office/warehouse use. The office space consists of about 45,000 square feet on the main level, 33,544 square feet on the second level, and 50,000 square feet of warehouse space. The warehouse area has 16 foot clearance and four loading docks. There are some 450 surface parking stalls on the property. The building is rated as 'A' quality by the City.

The entire building was vacant as of December 31, 2010 and advertised for sub-lease. The asking rate was \$17 per square foot for the entire space. It is also possible to demise the total space into its three component parts (i.e. main level office, second floor office and warehouse).

The assessment was done using an income approach with a net market rent of \$15/ft² applied to the entire 128,554 ft² area. A vacancy rate of 1% and capitalization rate of 8.75% is also used in the assessment, to arrive at the assessed value of \$21,190,000.

Issues:

1. What is the appropriate market rent for the subject property, to calculate its assessed value using the income approach?
2. What is the appropriate vacancy rate for the subject property, to calculate its assessed value using the income approach?
3. Is the assessed value equitable, compared to other similar properties?

Complainant's Requested Value: \$17,250,000

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

1. **What is the appropriate market rent for the subject property, to calculate its assessed value using the income approach?**

The Complainant disagreed with the \$15 per square foot rental rate applied to the building by the City, and argued that the market indicates a rate of \$12 per square foot for this type of building. The following three comparables (page 9, Exhibit C1) were presented to support the \$12/ft² rate.

| | Address | Bldg Area (ft ²) | Use | Quality | Lease Rate (per ft ²) |
|---|----------------|------------------------------|-------------------------------|---------|-----------------------------------|
| 1 | 808 55 Ave NE | 104,572 | Warehouse w/ office extension | A- | \$12.00 |
| 2 | 5055 11 St NE | 64,168 | Suburban office | A2 | \$13.00 |
| 3 | 1925 18 Ave NE | 193,628 | Suburban office | A+ | \$18.00 |

In addition, leased space listings were provided (pages 39 to 44, Exhibit C1) showing asking prices for office space in the northeast quadrant of Calgary ranging from \$8/ft² to \$21/ft².

With regard to Comparables 1 and 2 above, the Respondent provided evidence showing that these two leases include 26,717 ft² and 17,645 ft² of below grade office space respectively. It was the Respondent's contention that the below grade office space likely caused the lease rate for the entire leased space to be discounted. Therefore, it was the Respondent's position that these two examples were not comparable to the subject.

The Respondent argued that the asking lease rate on the subject is \$17/ft², which supports the \$15/ft² used by the City. The Respondent presented two comparables indicating a lease rate of \$20.27 and \$16.00 per square foot for office/warehouse buildings (page 34, Exhibit R1). The leases were dated July 2009 and September 2010 (post facto) respectively.

Board's Decision:

The Complainant's evidence includes one warehouse and two office spaces. These comparable sales are from properties that are not considered office/warehouse use buildings. For that reason, the Board does not find the evidence presented by the Complainant as relevant to the subject property. The Board noted that the Assessment

Request for Information for the subject property presented in the Respondent's evidence (page 28, Exhibit R1), included a rent roll dated March 31, 2010. The Board interprets this rent roll to indicate that as of January 1, 2011, the lease rate being paid is \$17/ft², which supports the asking sub-lease rate of \$17/ft².

The Respondent did not present much evidence to support its rate of \$15/ft². Of the two comparables presented, one was a 2009 lease renewal and the other was post facto to the date of assessment (July 1, 2010).

Given that the evidence present lacks comparability with the subject and some of the evidence is not within the assessment period, the Board has no basis to vary the \$15/ft² rent rate used in the assessment calculation.

2. What is the appropriate vacancy rate for the subject property, to calculate its assessed value using the income approach?

The Complainant indicated that the 1% vacancy rate applied by the City was not correct and argued that a 7% rate is more reflective of the market for the subject property. The Complainant indicated that the subject was vacant as of December 31, 2010 and continues to be vacant. In response to Board questions, the Complainant indicated that the previous tenant (General Electric Canada Inc.) has a lease in place until December 31, 2015. This tenant is attempting to sub-lease the space and is asking \$17 per square foot for the entire building.

The Respondent presented a summary of the suburban office/warehouse vacancy analysis (page 51, Exhibit R1). There are a total of 32 properties in this class, with vacancy information obtained from 29 of these properties. The subject property is one of the 29 properties in the study and showed a vacancy rate of 0%. The vast majority of these properties have 0% vacancy. The mean vacancy rate determined by the study is 0.67%. The vacancy rate used in the assessment calculation is 1.00%.

Board's Decision:

The Board noted that the Complainant did not provide any evidence to indicate that the 1% vacancy rate used in the assessment is not correct. The 1% vacancy rate is supported by the City's vacancy rate study for office/warehouse buildings. It is the Board's position that this is the best evidence before it, with regard to a vacancy rate. The Board concluded that the appropriate vacancy rate is the 1% used by the City and supported by their vacancy rate study.

3. Is the assessed value equitable, compared to other similar properties?

The Complainant argued that the assessed value of the subject is not correct or equitable when compared with other similar properties in the area. Four comparisons were presented. The following table is taken from page 9, Exhibit C1 summarizing these four comparables.

| | Address | Bldg Area (ft ²) | Use | Quality | Assess. Per ft ² | Sale Price | Price per ft ² |
|---|----------------|---------------------------------|------------------------|---------|--------------------------------|--------------|---------------------------|
| 4 | 5050 40 St NE | 208,549 | Suburban office | A+ | \$233.57 | \$97,000,000 | \$465.12 |
| 5 | 3905 29 St. NE | 113,480 | Multi-bay warehouse | C | \$65.00 | \$7,760,000 | \$66.97 |
| 6 | 3536 27 St. NE | 21,386 | Multi-bay warehouse | C | \$108.00 | \$2,000,000 | \$93.52 |
| 7 | 3405 32 St NE | 15,785 | Retail | C+ | \$151.00 | \$2,550,000 | \$161.55 |

Based on this data, the Complainant stated that the market value for office space was \$150/ft² and the market value of warehouse space was \$110/ft². The Complainant did not provide much discussion as to the detailed analysis that resulted in the rates concluded for office and warehouse space. Applying these rates to the subject property resulted in the assessed value of the subject being calculated as follows:

| | | |
|--------------------------|--|----------------|
| Office | 45,000 ft ² x \$150/ft ² | = \$ 6,750,000 |
| Office | 33,554 ft ² x \$150/ft ² | = \$ 5,033,100 |
| Warehouse | 50,000 ft ² x \$110/ft ² | = \$ 5,500,000 |
| Requested Assessed Value | \$17,283,100; say \$17,250,000 | |

This requested assessed value translates into a value of the property on a per square foot of building basis of:

$$\$17,250,000 \div 128,554 \text{ ft}^2 = \$134.18/\text{ft}^2$$

The Respondent presented a table (page 30, Exhibit R1) showing five equity comparable office/warehouse properties that were assessed using a rental rate of \$15/ft². Two of these five properties were also presented as sales comparisons. 1930 Maynard Road S.E. sold in September 2008 for \$235/ft². 2721 Hopewell Place N.E. sold in August 2008 for \$195/ft². The Respondent stated that the information presented by the Complainant for Comparable 4 was incorrect and presented a RealNet Transaction Summary Report. This information indicated that the sale included three separate buildings and adjacent vacant land. In the "General Remarks" the sales breakdown indicated that the buildings were valued at \$155 per square foot. The Respondent also indicated that the report referred to the "Sale Type" as "distress – court order" which likely resulted in a lower price than if the property would have been a sale at fair market value.

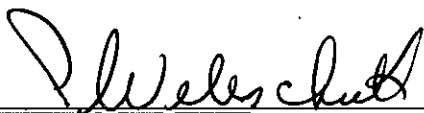
Board's Decision:

The four sales comparisons presented by the Complainant are for very different properties than the subject. Furthermore, the information presented by the Complainant for Comparable 4 is inaccurate and cannot be relied on. Comparable 5 is a post facto sale (October 2010). The Board was not provided with the analysis that resulted in the rates concluded by the Complainant for the office and warehouse space. Presumably the data presented would have been adjusted at least for size, use and quality. The evidence presented is not sufficient to demonstrate that the assessment is inequitable.

Board's Decision:

The Board confirms the assessed value of \$21,190,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF SEPTEMBER 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.*