

**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:

***Optrust West Industrial Inc.
(as represented by AEC International Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
M. Peters, MEMBER
E. Reuther, 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:	201598018
LOCATION ADDRESS:	5801 72 AV SE
HEARING NUMBER:	63207
ASSESSMENT:	\$39,700,000

This complaint was heard on 22 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *Mr. A. Payn* *Agent, AEC International Inc.*

Appeared on behalf of the Respondent:

- *Mr. M. Berzins* *Assessor, City of Calgary*

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

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

Property Description:

The subject property is a warehouse and distribution facility for Kraft Canada Inc. and Hopewell Distribution Services located in Great Plains Industrial Park. It is a single tenant industrial warehouse, comprised of 410,483 sq. ft.; built in 2009; and has 2% finish. The building is situated on 20.92 acres of land. The site coverage ratio is 45.16%. The land designation is I-G, Industrial General.

The property was assessed based on the Direct Sales Comparison approach and has an assessed value of \$97.00 psf.

Issues:

1. The subject property should have been assessed based on the Income Approach to value.
2. The subject property is not equitably assessed with similar properties.

Complainant's Requested Values: \$27,406,000 or \$33,024,000

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

1. The subject property should have been assessed based on the Income Approach to value.

The Complainant submitted the Income Approach to value is the preferred method of valuation for large warehouse properties. He argued there are not enough sales in the market to support the Direct Sales Comparison approach as applied by the Respondent in assessing warehouse properties. He submitted that there were 4 sales of warehouse buildings in excess of 100,000 sq. ft., only two of which were used in the Respondent's analysis, which had an ASR (assessment to sales ratio) between 0.928 – 1.156 (Exhibit C1 pages 23 & 24).

The Complainant submitted that it is difficult to obtain actual leasing information and presented a chart based on discussions with local brokers (Exhibit C1 page 15). The chart was comprised of 4 large warehouses of 79,500 – 108,173 sq. ft., which leases had commenced in February – September 2010, at \$4.90 psf - \$5.50 psf and the Complainant derived an average rent of \$5.29 psf. He indicated that third - party market reports in the 2010 Q2 also support that data (Exhibit C1 page 14).

The Complainant derived the remaining income parameters based on the market reports: vacancy rate (4.6%), vacancy shortfall (\$1.75 psf), unrecoverable expenses (1%) and capitalization rate (7.25%) (Exhibit C1 pages 16 - 21). The Complainant applied these valuation parameters to the subject property and derived a value of \$27,406,000 (or \$66.59 psf) (Exhibit C1 page 22).

The Respondent submitted that the Complainant's Income Approach was put forward with no supporting market evidence; therefore, the only issue before the Board is equity. He argued that recent Board decisions suggest that an assessment could be reduced based on equity if it fell outside of the range of market values. The Respondent cited Board decisions CARB 1251-2011-P and CARB 1119-2011-P but did not provide copies of those decisions to the Board.

The Respondent submitted the subject property had sold in June of 2009 for \$40,000,000 (Exhibit R1 pages 30 - 32). The vendor was Hopewell Development Corporation. Hopewell Distribution Services and Kraft Canada Inc. were tenants in the building at the time of sale and have 10 year leases of \$7.60 - \$8.35 psf (with increases after 5 years). The Respondent submitted that lease - back sales can be troublesome; however, in his discussions with the broker, there was no evidence to suggest it affected its market value. He submitted the Assessment Request for Information Non- Residential Property Sale to show this was an arm's length transaction (Exhibit R1 pages 34 - 37). He also presented a Corporate Search to show that the parties were not related (Exhibit R1 pages 38 - 43).

The Respondent also submitted the Assessment Request for Information ("ARFI") for the subject property dated April 9, 2010 to show the breakdown of the space for the two tenants and the lease rates that commenced in 2009: Hopewell Distribution Services occupy 158,594 sq. ft. with a lease rate of \$7.60 psf and Kraft Canada Inc. occupies 252,966 sq. ft. and has a lease rate of \$8.35 psf (Exhibit R1 pages 44 - 46).

The Respondent presented nine sales comparables (including the sale of the subject property) in support of the assessed rate applied to the subject property (Exhibit R1 page 48). The sales occurred in December 2007 to April 2010. The buildings are 116,724 – 410,483 sq. ft.; situated on parcels 4.44 – 20.92 acres; site coverage 26.41% - 60.05%; built in 1990 - 2009; finish 0% - 47%; and had sold for a time adjusted sale price of \$81.00 - \$135.00 psf (median of \$97.00 psf).

The Board placed little weight on the Complainant's Income Approach to value because the income parameters, which were based on third party market reports, were unsupported. Moreover, the current leases in the subject property of \$7.60 psf - \$8.35 psf support the current assessment. The Board finds the recent sale of the subject property in 2009 at \$40,000,000 also supports the current assessment. There was no evidence presented to the Board to suggest that this sale, despite its lease - back, should not be taken into consideration.

As an aside, the Board noted the parcel size reported in the sales documents was 30.24 acres, whereas the subject was assessed at 20.92 acres; however, this was not an issue identified by

the parties at the hearing.

2. The subject property is not equitably assessed with similar properties.

The Complainant submitted 23 equity comparables (including the subject property) in support of a reduced assessed rate (Exhibit C1 page 26). The buildings are 146,780 sq. ft. – 767,000 sq. ft.; parcels of 5.98 – 45.02 acres; site coverage 31.3% - 62.6%; built in 1990 - 2005; and assessed \$51.00- \$99.00 psf. However, the Complainant relied solely on three of those comparables in his submission; specifically, the properties located at 11 Dufferin Place SE, 5555 69 Avenue SE and 5664 69 Avenue SE. These three properties have building sizes of 201,415 - 309,557 sq. ft.; parcels 8.01- 11.72 acres; site coverage of 50.5% - 60.6%; built in 2002 - 2005; and were assessed between \$75.00 - \$87.00 psf. The Complainant suggested a mid - range rate of \$81.00 psf to be applied to the subject property for an assessed value of \$33,024,000.

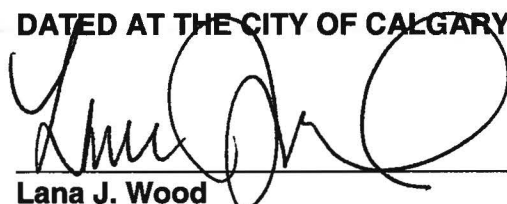
The Respondent submitted 14 equity comparables in support of the assessed rate of \$97.00 psf applied to the subject property (Exhibit R1 page 47). The buildings were 100,212 sq. ft. – 972,242 sq. ft.; site coverage 19.40% - 60.05%; built in 1995 - 2009; finish 0% - 19%; and assessed \$69.00 - \$150.00 psf (median of \$99.00 psf).

The Board finds the Complainant's equity argument fails because his equity comparables are not similar to the subject property in terms of building size, parcel size and site coverage.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$39,700,000.

DATED AT THE CITY OF CALGARY THIS 7 DAY OF OCTOBER 2011.



Lana J. Wood
Presiding Officer

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

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

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.*