

**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:

KS 925 – 28th Street NE Inc. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
J. Massey, MEMBER
E. Bruton, 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:	054003991
LOCATION ADDRESS:	2855T – 10 AV NE
HEARING NUMBER:	67719
ASSESSMENT:	\$15,120,000

This complaint was heard on 10th day of October, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Board 6.

Appeared on behalf of the Complainant:

- Ms. C. Van Staden – Altus Group Limited

Appeared on behalf of the Respondent:

- Ms. – K. Cody - Assessor – City of Calgary
- Ms. – M. Hartmann – 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] The following appeals were heard by the Board during the week of October 9 to 12, 2012 inclusive:

File No.	Decision No.	Roll No.	Address
68379	2063-2012-P	024008302	5225 – 8 ST NE
67719	2064-2012-P	054003991	2855T – 10 AV NE
66891	2065-2012-P	054006200	2820 – Centre AV NE
66893	2066-2012-P	054006606	404 Meridian RD NE
66896	2067-2012-P	054006754	315 Moraine RD NE
68215	2068-2012-P	054012505	2916 – 5 AV NE
66897	2069-2012-P	054012604	640 – 28 ST NE
67720	2070-2012-P	054013008	2915 – 10 AV NE
68038	2071-2012-P	054013107	3202 – 12 AV NE
68195	2085-2012-P	054014691	420 – 28 ST NE
68266	2086-2012-P	055124903	2020 Centre AV NE
66899	2087-2012-P	055162200	1880 Centre AV NE
68271	2088-2012-P	070033006	219 – 18 ST SE
68272	2089-2012-P	071043905	115 – 28 ST SE
66651	2090-2012-P	201311156	2820 – Centre AV NE

[3] **Common Issues:** All of the Board members named above attended all of the foregoing hearings throughout the week, and the Parties appearing before the Board during that time were represented by the same individuals noted above. Many of the issues, arguments, questions and responses were common throughout. At the request of the Parties and with the concurrence of the Board, those commonalities were carried forward from the hearing where they were first raised, to subsequent hearings without being restated in full in each hearing or in each written decision. The Parties selected file 68379 to be the “master” file upon which all common evidence and argument would be based and henceforth carried forward to subsequent files in turn.

[4] **S. 299. MGA:** In each of the complaints, the Complainant referenced information related to s. 299 of the Act. In each case – except one (file 66896) – the Complainant confirmed that there was no claim that the Respondent failed to produce the requested disclosures.

Property Description:

[5] The subject is a 1999 single-building multi-tenant (IWM) industrial warehouse on 7.85 acres (Ac.) in the Meridian industrial area. The site is zoned I-G in the City's Land Use Bylaw. The building contains 143,154 square feet (SF) of assessable space; has 25% finish; 42.06% site coverage, and is assessed using the Sales Comparison Approach to Value at \$105.64 per SF. The assessment is \$15,120,000.

Issues:

[6] What is the correct assessment for the subject when its 2012 assessed value is tested against selected valuation approaches and/or techniques?

[7] What is the correct assessable area for the subject?

Complainant's Requested Value:

[8] The Complainant requested the assessment be reduced to \$12,050,000 based on the Sales Comparison Approach to Value.

Board's Decision in Respect of Each Matter or Issue:**Issue #1****1. Equity Approach:**

[9] The Complainant provided six assessment equity comparable properties and compared their individual characteristics to the subject. The Complainant argued that she had made several land area, site cover, and age, and assessment "adjustments" to the six comparables and provided the Board and Respondent with verbal explanations but no written details of those calculations.

[10] The Complainant argued that she had conducted a "paired assessment analysis" of the six equity comparables. She also clarified that using a "building residual" technique, she had "backed out" and later "added back in" the land portion of the properties to help refine her calculations. She clarified that she preferred this approach, to one using a site cover ratio. The Complainant argued that based on her analysis, an equitable value for the subject is \$14,526,562 or \$14,520,000 rounded.

[11] The Respondent provided six assessment equity comparables for comparison to the subject. All six equity comparables were selected on the basis of land area; assessable building area; age; site coverage; and assessed rate per SF. She argued that the characteristics of these six properties closely match the subject and support the assessment. She also argued that the Complainant's analysis of the Complainant's six equity comparables is flawed since the Complainant has not provided written documentation of how she adjusted her comparables.

[12] In addition the Respondent argued that the Complainant's technique of "backing out" the land value is not an acceptable practice under the legislated Mass Appraisal process used by the City to value properties for assessment purposes. She also noted that the Complainant acknowledges adjusting for land area and year of construction, but not for building size or type. She argued that this is flawed methodology leading to unreliable results.

[13] In reviewing the issue of equity, the Board found that the Complainant had not provided documented information to either the Board or the Respondent as to the former's adjustments, which, in concert with an unsupported land value calculation, meant that the Board placed little weight on the Complainant's calculations of value using this methodology. The Board also noted that the Respondent's per square foot equity values created ranges of values that supported the assessment.

2. Sales Comparison Approach:

[14] The Complainant provided five sales comparables and reviewed their individual characteristics as compared to the subject. The Complainant argued that the “best” sale is the subject, which sold as part of a portfolio of sales on November 4, 2010. She argued that while the sale of the subject is not an “arms length” sale, nevertheless it is “validated” by an appraisal prepared for the site valuing it in 2010 at \$12,750,000. A copy of the appraisal was not submitted. The Complainant argued that when the appraisal value is time-adjusted, the indicated value is \$12,723,600 and this evidence supports a reduction to the assessment. She also suggested that the Respondent had not rebutted the appraisal although the Respondent had not received a copy of it.

[15] The Complainant provided the City's Assessment Request For Information (ARFI) titled “Non-Residential Property Sale Questionnaire” confirming the particulars of the sale of the site. She clarified that the sale was not brokered; was part of a large value portfolio of properties; was a non-arms length transaction (vendor and purchaser related parties); and the site contained undefined contamination issues at time of sale. The Complainant argued that this sale is the “best” evidence of value and should be relied on by the Board according to legal precedence. She provided the Board with excerpts of relevant legal decisions.

[16] The Complainant argued that with respect to her five sales comparables, she had made several “adjustments” to the five sales, and provided the Board and Respondent with verbal explanations but no written details of those calculations. She clarified that she had “backed out” and later “added back in” the land portion of the properties to help refine her calculations, since “land value is the biggest factor in overall value”. She argued that by adjusting the “key factors” for each of her four market sales comparables, and based on a median value of the sales, an indicated value of \$12,050,000 (rounded) is warranted for the subject.

[17] The Respondent provided three market sales comparables, two of which were also used by the Complainant. The two “common” sales were located at 6732 – 8 ST NE and 930 – 64 AV NE. The Respondent argued that the three sales generally matched the subject's individual site characteristics of assessable building area; age; and site coverage. The three time-adjusted sales demonstrated a value range that supported the assessment of the subject.

[18] The Respondent argued that the Complainant's arguments regarding the validity of the 2010 sale of the subject should be completely discounted by the Board. She argued that while the property did sell, the City had not used that sale in its model precisely because it was not a brokered sale; it was part of a \$2 billion portfolio of sold properties; the Land Titles documentation shows it to be a non-arms length transaction between affiliated parties; and there were acknowledged environmental issues with the site. She argued that on any one of the several issues noted above, that the City has with the validity of the sale, it would have been rejected as a candidate for inclusion into the City's model.

[19] The Respondent also advised that the Complainant described, but had not provided the separate appraisal for the subject for either the Board or Respondent. Therefore it is not possible to specifically rebut any portion of it. The Respondent also noted via the Alberta DataSearch information sheets, that the subject sold in 2002 for \$10,675,000. She argued that in the intervening ten years, the subject, like other industrial properties in Calgary, had increased in value beyond the Complainant's current requested assessment value.

[20] The Respondent argued that the Complainant's “paired assessment analysis” is not a valid valuation methodology under Mass Appraisal, and represents a questionable methodology which has not been explained to either the Respondent or the Board. The Respondent also argued that when carefully examined and correct adjustments made to them, the Complainant's sales data creates a range of values which, along with those of the Respondent's, supports the assessment.

[21] In its review of this issue, the Board found that the Complainant had not informed either the Board or the Respondent as to the details of the former's market sales adjustments which left the Board with little clarification regarding this methodology. In addition the Complainant relies on a 2010 non-brokered portfolio sale of the subject, a sale which occurred between related parties. The Board does not accept this to be a valid transaction for assessment purposes. The Board accepts that the Respondent's sales data creates a range of values which support the assessment. In totality therefore the Board placed little weight on the Complainant's conclusions of value using this methodology.

3. Assessment to Sale Ratio:

[22] The Complainant provided a critique of the City's assessment model, arguing that the "key factors" in it "do not work" and "do not explain what is going on with these properties" and hence it provides erroneous assessment values. She noted she had analyzed the City's list of 164 sales of industrial warehouse properties used in the model, to arrive at this conclusion. She provided the results of the analysis and calculations, illustrating the minimum, maximum, median and mean time-adjusted assessment to sales ratios. She identified the coefficients of dispersion and variation of these ratios. She argued that it is the position of the International Association of Assessing Officers (IAAO) that the overall ratios should not be greater than 5% but the City's model has exceeded that value.

[23] The Respondent noted that the Complainant had not provided the list of properties used in her analysis, nor had she provided the analysis itself, and therefore it was not possible to verify the Complainant's methodology or conclusions.

[24] The Board found that the Board in CARB 1825/2012-P, faced with a highly similar if not identical issue, concluded in paragraphs [10], [11], and [12] that:

[10]....."Without the analysis that supports the Complainant's conclusions, it is not possible to form an opinion on the results.

[11] In any event, it is not the Board's role to rule on the validity of the Respondent's asset range. *Matters Relating to Assessment and Taxation Regulation* AR 220/2004 MRAT), s.10 in particular, governs the quality standards and procedures established through the Alberta Assessment Quality Minister's Guidelines and s. 293 of the Act.

[12] The Complainant's position on the assessment to sales ratio carried little weight in the Board's deliberations on the merits of the Complaint."

[25] The Board also finds on the face of the evidence in this hearing that it places little weight on the Complainant's arguments regarding the alleged inaccuracy of the City's model, and the assessment to sale ratios derived therefrom.

Issue #2

[26] The Complainant argued that the subject is over-assessed by virtue of incorrect measurements of assessable area for the subject. She clarified that she had scaled the City's drawing of the subject, which drawing was created after the City physically measured the subject June 21, 2010. She re-calculated the subject's area to be 142,755 SF whereas the City had physically measured the subject to be 143,835 SF.

[27] The Respondent clarified that City personnel had been onsite and measured the subject using standard measuring techniques and equipment which are used to measure all similar properties in the City. She argued that by simply measuring a drawing of uncertain scale, the Complainant has not demonstrated that the subject has been incorrectly measured by the City onsite.

[28] In reviewing this issue, the Board found that there was insufficient information provided by the Complainant to confirm that the subject's assessable area is incorrect. The Board accepts that City

personnel were onsite in 2010, and using standardized equipment and techniques, correctly measured the subject.

Board's Findings with Reasons:

[29] The Board finds that with respect to equity, the Complainant was unable to document and support the several adjustments made to her comparable properties which raised considerable doubt as to their comparability to the subject. The Respondent's equity comparables each displayed individual characteristics which when compared to the subject, support the assessment.

[30] The Board finds with respect to sales comparison, the Complainant's adjustments to her property comparables were not documented, which raised doubt about their comparability to the subject. In addition, the Complainant's "building residual" technique and the Complainant's "paired assessment analysis" technique, were not well documented, and therefore cast considerable doubt regarding the valuation conclusions they generated.

[31] The Board found that the individual characteristics of the Respondent's sales evidence when compared to those of the subject, and in concert with the relevant sales values, supported the assessment.

[32] The Board found that the Complainant relied on the 2010 sale of the subject which was said to be affected at the time by undefined contamination issues. This sale was part of a non-brokered, portfolio sale between affiliated parties and was rejected by the Respondent for inclusion in the City's assessment modelling process for all of the foregoing reasons. The Board also rejects this sale as a valid indicator of alternate assessment value for the subject. Therefore the Board placed little weight on the comparative valuation results advanced by the Complainant using this methodology.

[33] The Board found that the Complainant provided and relied on verbal testimony that an appraisal for the subject had been completed for it in accordance with its 2010 sale in a portfolio transaction. However, a copy of the appraisal was not provided to either the Respondent or the Board. Therefore the Board placed little weight on this evidence.

[34] The Board found on the face of the evidence in this hearing that it places little weight on the Complainant's arguments regarding the alleged inaccuracy of the City's model, and the assessment to sale ratios derived therefrom.

[35] The Board found that there was insufficient evidence provided by the Complainant to confirm that the subject's assessable area is incorrect. The Board accepts that City personnel were onsite in 2010, and using standardized equipment and techniques, correctly measured the subject.

[36] The Board found that the assessment of the subject is fair, correct, and equitable.

Board's Decision:

[37] The assessment is confirmed at \$15,120,000.

DATED AT THE CITY OF CALGARY THIS 13th DAY OF November 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. C-2	Complainant Disclosure – Rebuttal
3. 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-Issues
CARB	industrial	Multi-tenant warehouse	Market value	Equity; sales; size; appraisal