

**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:

**1414225 ALBERTA LTD., COMPLAINANT
(Represented by COLLIERS INTERNATIONAL)**

and

The City Of Calgary, RESPONDENT

before:

**Board Chair P. COLGATE
Board Member J. KERRISON
Board Member J. JOSEPH**

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: 101036309

LOCATION ADDRESS: 6101 CENTRE STREET SW

HEARING NUMBER: 61376

ASSESSMENT: \$1,830,000.00

This complaint was heard on 23 day of September, 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:

- *David Porteus, Colliers International – Representing 1414225 Alberta Ltd.*

Appeared on behalf of the Respondent:

- *John Wes Ehler – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

The property is a multi-tenant warehouse of 11,520 square feet of assessable area located in the Manchester Industrial area. The finished area of the warehouse is 42%. The site encompasses 34,637 square feet or .80 acres, with site coverage of 33.26%. The Land Use Designation is Direct Control (1P2007).

Issue:

Is the subject property assessed fairly and equitably based upon the sales comparison approach?

Complainant's Requested Value: \$1,260,000.00 – Revised at hearing to \$1,370,000.00

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

Complainant's Evidence:

As background information the Complainant submitted the 2011 Property Assessment Notice, an aerial photography of the subject site, a ground level photograph of the subject building, a City of Calgary - My Property Report, 2011 Assessment Summary Report and the 2011 Assessment Explanation Supplement. (C1, Pg.13-20)

A review of the Assessment Explanation Supplement indicated the property is currently assessed at a rate of \$159.24 per square foot of assessable building area.

The Complainant submitted a copy of the City of Calgary document outlining the key factors, components and variables for industrial warehouse valuation, (C1, Pg.22-23) specifically building type, net rentable area, year of construction, region/location, percentage of finish, site

coverage and multiple buildings.

The Complainant submitted a table of six Non-Residential sales in support of the requested revision to the assessment. (C1 Pg. 25) The analysis of the sales indicated a mean sale price per square foot of \$114.60 and a median sale price per square foot of \$120.18. The mean assessment per square foot was \$138.46 with a median assessment of \$131.55 per square foot.

N.B. – The Board notes at this time the Complainant revised the requested assessment to **\$1,370,000.00** during the hearing, after the removal of one comparable – 1560 Hasting Crescent SE – which was shown to be a contaminated site. The corrected mean for the sale prices, with the removal of the one property, was calculated to be \$119.23 per square foot.

The Complainant submitted Assessment Summary Reports and RealNet reports in support of the six sales used in the analysis.

The Complainant submitted the document “City of Calgary Non-Residential Sales July 2008 – June 2010”, (C2) which contained the sales used by the City of Calgary for the 2011 assessments. No direct reference was made to the content of the document.

Respondent's Evidence:

The Respondent submitted an aerial photograph, a location map of the subject property and a 2011 Assessment Explanation Supplement. (R1 Pg. 9-11)

The Respondent entered five Industrial Sale Comparables to establish a median sale price per square foot to support the rate for the subject. The subject had been assessed at \$159.00 per square foot. The median sale price per square foot for the five comparables was \$198.00. (R1 Pg. 12)

The Respondent presented a response to the sales submitted by the Complainant, specifically finding flaws in two of the sales presented – 1560 Hastings Crescent SE and 5520 4 Street SE, which show contamination.

A copy of the RealNet Industrial Transaction Summary for 2009-12-16 on the sale of the property at 1560 Hastings Crescent SE stated, “It is our understanding, through communications with industry professionals, that the property had some soil contamination issues and that a budget for remediation was estimated at \$750,000.00. (R1, Pg. 15-17)

The Respondent noted the sale of 1560 Hastings Crescent SE was a valid sale, but was not used in the market analysis as the sale price was depressed due to the contamination and the need for remediation.

A second sale was shown to also suffer from contamination issues – 5520 4 Street SE. With respect to the property the Respondent submitted a 1979 “Report on Calgary Lead Sampling Study” which clearly shows a contamination issue for the area west of Blackfoot Trail SE (R1, Pg. 19-106). A second report, “Environmental Assessment 5520 4 Street SE Calgary Alberta” further supported the position the property was experiencing contamination. (R1, Pg. 107-126)

The Respondent challenged a third sale located at 6912 Farrell Road SE, on the basis of site coverage, which was high at 62.52% compared to the 33.26% coverage for the subject property and the low finished area at 8% versus the subject finish at 42%. (R1, Pg. 127-129)

The Respondent submitted a revised table of sales using only four properties - 4609 Manitoba Road SE, 4301 9 Street SE, 402 53 Avenue SE and 5520 4 Street SE. The revised median sale price per square foot submitted was \$134.00. (R1, Pg. 14)

Findings of the Board

Complainant's Submission:

The Board accepted the request by the Complainant to revise the assessment requested to \$1,370,000.00, after the Complainant removed the one contaminated site from the table – 1560 Hastings Crescent SE and recalculated the requested assessment.

The Board found the challenge presented by the Respondent to the two sales – 1560 Hastings Crescent SE and 5520 4 Street SE – with respect to the issue of contamination influencing the market value to be supported. The properties, while trading in the market place, would not be representative of typical properties – non-contaminated – and should be excluded from any analysis of sale prices to establish a typical rate per square foot.

Respondent's Submission:

As previously stated the challenge to the two contaminated sites was granted by the Board and they were removed from the Board's analysis.

The Board was not persuaded to exclude the sale at 6912 Farrell Road SE on the issue of site coverage. Although the site coverage percentage is substantially higher, the Respondent did not provide a satisfactory argument for the exclusion.

The Board finds the Respondent's chart (R1, Pg. 14) with respect to the Complainant's sale comparables to raise a question. Why was the property at 5520 4 Street SE left in the analysis when the Respondent went to lengths to show why it should be excluded due to contamination? This oversight results in the Board questioning the median calculation as presented.

Board's Decision:

The Board found both the Complainant and the Respondent presented valid sales to support their respective positions. The Board accepted four sales from each of the parties to analyze the market value of the subject property.

The Board found, after reviewing the sales, the calculated mean and median, as shown in the table, were not sufficiently different to support a change to the assessment.

ADDRESS	TIME ADJUSTED SALE PRICE	T/A SALE PRICE PER SQUARE FOOT
4609 MANITOBA ROAD SE	\$1,500,000.00	\$131
4301 9 STREET SE	\$1,831,546.00	\$125
402 53 AVENUE SE	\$2,100,000.00	\$136
6912 FARRELL ROAD SE	\$1,450,000.00	\$78
414 36 AVENUE SE	\$1,459,515.00	\$180
1107 46 AVENUE SE	\$2,175,000.00	\$229
5720 1 AVENUE SE	\$2,118,651.00	\$192
6020 3 STREET SE	\$3,201,518.00	\$198
	AVERAGE	\$158.63
	MEDIAN	\$158.00
	CURRENT RATE	\$159.00

The Board confirms the assessment at \$1,830,000.00

DATED AT THE CITY OF CALGARY THIS 8 DAY OF November 2011.


Philip Colgate
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. 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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Multi Tenant	Income Approach	Equity Comparables

LEGISLATIVE REQUIREMENTS**MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Division 1**Preparation of Assessments****Preparing annual assessments**

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

289(2) Each assessment must reflect (a)the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

ALBERTA REGULATION 220/2004**Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) “assessment year” means the year prior to the taxation year;

Part 1**Standards of Assessment****Mass appraisal**

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.