

## **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:**

***5905 11<sup>th</sup> Street Holdings Inc. (as represented by MNP LLP), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***W. Kipp, PRESIDING OFFICER***

***D. Steele, BOARD MEMBER***

***A. Wong, BOARD 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 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>100006600</b>
<b>LOCATION ADDRESS:</b>	<b>5905 – 11 Street SE, Calgary AB</b>
<b>FILE NUMBER:</b>	<b>70604</b>
<b>ASSESSMENT:</b>	<b>\$7,460,000</b>

This complaint was heard on the 23<sup>rd</sup> day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *L. Langelaar & Y. Lau*

Appeared on behalf of the Respondent:

- *J. Greer*

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

- [1] There were no preliminary procedural or jurisdictional matters to be decided.

**Property Description:**

[2] The property that is the subject of this assessment complaint is a multi-tenant industrial property located in Burns Industrial Park in southeast Calgary. The 65,084 square foot building is situated on a 5.61 acre industrial lot. The building was constructed in 1971. The building footprint area represents a 26.12 percent site coverage ratio.

[3] The 2013 assessment is based on the market value of the property as at July 1, 2012 and the property characteristics and condition as at December 31, 2012. Using a sales comparison approach, the assessment rate applied to the total assessable floor area of the building is \$114.76 per square foot. This includes a positive adjustment for 0.72 acre of "extra land." For industrial properties, a 30 percent site coverage ratio is considered to be typical. For any property that differs from that 30 percent norm, an adjustment is made. In the subject instance where the ratio was lower than 30 percent, value was added for the 0.72 acre portion of the site considered to be extra land.

**Issues:**

[4] In the Assessment Review Board Complaint form, filed March 1, 2013, Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[5] In Section 5 – Reason(s) for Complaint, the Complainant stated that the assessment amount is incorrect. Several grounds for the complaint were set out.

[6] At the hearing, the Complainant pursued the following issues:

- a. Should the assessed rate per square foot be reduced to \$96.80 based upon an April 2012 sale of the subject property?
- b. Is the Respondent's time adjustment representative of market changes up to the July 1, 2012 valuation date?

**Complainant's Requested Value: \$6,300,000**

**Board's Decision:**

[7] The 2013 assessment is reduced to \$6,400,000

**Position of the Parties**

**Complainant's Position:**

[8] During the presentation of evidence and cross-examination of the Complainant, it came to light that the Complainant was relying on building sizes (floor areas) that were reported in online documents (Property Assessment Detail Report or PADR) on the City of Calgary website. The Respondent pointed out that this website contained numerous errors in floor areas and that the errors had been in place for some time but no method of making corrections had yet been developed. According to the Respondent, the most accurate floor areas were those reported in the Assessment Explanation Supplement (AES) sheets which are not available from the website and which must be individually requested by taxpayers from the Assessment Business Unit. In each instance where the Respondent pointed out that one City of Calgary document contradicted another document, the Complainant made the appropriate adjustments in its rebuttal disclosure. For the subject property, the area change was from 70,240 square feet to 65,084 square feet. The areas of two of the comparable properties used by the Complainant also varied from the PADR to the AES.

[9] The Complainant made adjustments for market changes over time (time adjustment). The Respondent had developed a time adjustment trend line that segregated adjustments over four trend periods of time from July 2009 to July 2012. The fourth time period had a 0.0 percent adjustment in the Respondent's analysis. The Complainant observed a downward slope to the trend line for this period which it measured at - 0.5 percent per month. The Complainant accepted and adopted the Respondent's time adjustment rates for the other three time periods.

[10] There had been a sale of the subject property in April 2012. The sale price of \$6,400,000 (not time adjusted by the Respondent) was adjusted by the Complainant to \$6,300,000. The Respondent does recognize the subject property sale as a valid sale according to City of Calgary sale summary documents. Yet, the sale is not included in the Respondent's evidence even though it occurred less than three months prior to the assessment valuation date of July 1, 2012.

[11] The Complainant also provided data on three other sales and argued that these sales support a reduction in the subject's assessed rate.

[12] Having regard to the assessment adjustment for extra land, the Complainant provided a photograph and argument to show the Board that the topography of the site was such that much of the alleged extra land could not be used and therefore did not add value.

**Respondent's Position:**

[13] The Respondent stated that it is the building assessable area of 65,084 square feet shown on the Assessment Explanation Supplement (AES) that is taken to be the correct floor area. While the PADR for all properties is available to the public via the City of Calgary website,

an AES can only be obtained for a taxpayer's property by the taxpayer or an authorized agent.

[14] The time adjustment analysis undertaken by the Respondent covered the time period from July 2009 to June 2012. A trend line was developed from plotting the results from a multiple regression analysis of Sale to Assessment ratios based on the 2012 assessments of properties that sold during the time period. The graphical presentation showed:

From July 2009 to May 2010 (11 months)	- 0.7912 percent per month
From June 2010 to March 2011 (10 months)	0.0 percent per month
From April 2011 to November 2011 (8 months)	+1.5669 percent per month
From December 2011 to June 2012 (7 months)	0.0 percent per month

Only these results of the analysis were provided in evidence. Details were not provided.

[15] The Respondent acknowledged that the City of Calgary did include the April 2012 sale of the subject property in its list of industrial sales that is published on its website however it is not standard practice to include the sale of the subject property in the disclosure documents filed for an assessment complaint on that property.

[16] The Respondent pointed out the differences in floor areas in the Complainant's comparable sales. Those corrected sales along with three others were produced by the Respondent in support of the assessment.

[17] Details were provided to the Board of the methodology and mathematics behind the adjustment that is made for extra land. Whenever there is a variance from the 30 percent site coverage norm, an adjustment is made. When the actual ratio is below 30 percent, a positive adjustment is made for "extra land." When the ratio is higher, a negative adjustment is made.

[18] The Respondent argued that the time adjusted, area corrected prices of the six sales in evidence supported the subject assessment.

#### **Board's Reasons for Decision:**

[19] The Board reduces the assessment to \$6,400,000.

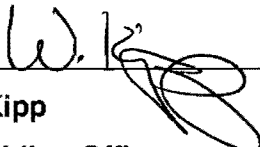
[20] During the presentation of evidence, it was found that the floor areas of the subject property and two of the Complainant's sales comparables were different than the area used by the Respondent. The Complainant had obtained the area from the Property Assessment Detail Report (PADR) for each of the properties that is published on the City of Calgary website. The Respondent informed the Board that building area data on the PADR's is frequently wrong. The Respondent relies upon the area shown on the Assessment Explanation Supplement, a document that is not available to the public and is only made available to a taxpayer upon request. The Board is concerned that the City of Calgary Assessment Business Unit continues to make its website compilation of PADR's available to taxpayers when it has been known for quite some time (years?) that many of those summary reports are inaccurate, particularly when it comes to building floor areas. Taxpayers will access that information and rely upon it thinking that the City would only publish correct data. Considerable Assessment Review Board hearing time could be saved if the City either corrected the data or removed it entirely until such time as only correct information can be made available.

[21] The Respondent explained that the time adjustment was calculated by multiple regression analysis of sales to assessment ratios. While the outcome was presented to the Board, the Respondent would not reveal the complete analysis. The Board does not understand

the significance of sales to assessment ratios in determining a time adjustment. In most other situations, it is actual sale prices of properties that form the basis of a time change study. Nor does the Board fully understand the Complainant's attempts to expand the adjustment to a negative factor during the fourth trend period. The Board did accept the Respondent's time adjustment because both parties relied upon the first three trend periods. The Board did not find market support for the Complainant's extension of the time adjustment factors for the fourth period.

[22] The subject property sale in April 2012 at \$6,400,000 included the building and all of the land. The sale was current when related to the July 2012 valuation date and it needed no time adjusting (according to the Respondent's time adjustment study). This actual sale price which was an arms-length, open market sale was not contested by the Respondent as a valid comparable. In light of numerous court and assessment review decisions spanning many years, the Board finds the actual subject property sale to be the best evidence of market value as at the valuation date. The Board does not understand how the Respondent can believe that an accurate assessment can be achieved when a valid sale of the subject property is not even considered in disclosure evidence while it is included in the universe of sales that are input into the valuation model.

DATED AT THE CITY OF CALGARY THIS 24<sup>th</sup> DAY OF August 2013.

  
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W. Kipp  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

*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 Internal Use*

<b>Appeal Type</b>	<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	WAREHOUSE	MULTI-TENANT	SALES APPROACH	COMPARABLES