

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:

CALGARY INDUSTRIAL PROPERTIES LTD., COMPLAINANT
C/O DUNDEE REALTY MANAGEMENT CORP.
(as represented by Colliers International realty Advisors Inc.)

and

The City Of Calgary, RESPONDENT

before:

BOARD CHAIR: P. COLGATE
BOARD MEMBER: B. BICKFORD
BOARD MEMBER: J. KERRISON

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:

ROLL NUMBER: 098007305

LOCATION ADDRESS: 2915 58 AVENUE SE

FILE NUMBER: 70913

ASSESSMENT: \$2,120,000.00

This complaint was heard on 19th day of August 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, in Boardroom 10.

Appeared on behalf of the Complainant:

- *Troy Howell. Colliers International Realty Advisors Inc.*

Appeared on behalf of the Respondent:

- *Jason Tran, City of Calgary*

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

Preliminary Matter:

[2] No preliminary matter was raised by either party. The Board proceeded to the merit hearing.

Property Description:

[3] The subject property contains a multi-bay warehouse (IN0701) constructed in 1975. The structure, rated as 'C' quality, is located at 2915 58 Avenue SE in the Foothills Industrial Area. The structure, situated on a 1.00-acre parcel, has an assessable area of 15,600 square feet, assessed at a rate of \$136.43 per square foot, using the Sales Comparison Approach. The property has a site coverage of 35.94% and an interior finish of 19%.

Issues:

The Complainant stated there was one issue in the complaint:

- Assessment rate for the subject property should be \$115.00 per square foot.

Complainant's Requested Value: \$1,790,000.00

Board's Decision:

[4] Based on the Board's decision for the issue stated, the Board found insufficient evidence to support the changes requested by the Complainant.

[5] The Board confirms the assessment at **\$2,120,000.00**

Legislative Authority, Requirements and Considerations:

[6] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[7] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

Position of the Parties

Issue 1: Assessment Rate

Complainant's Position:

[8] The Complainant argued the subject property should be assessed at a rate of \$115.00 per square foot, instead of the current assessment rate of \$136.43 per square foot.

[9] The Complainant submitted an analysis of three sales to support his requested assessment rate – 4415 64 Avenue SE, 1341 Hastings Crescent SE and Unit 3, 5537 1A Street SW. The Complainant's analysis indicated: (C1, Pg 23)

Address	Community	Sold Date	YOC	Building Type	Building Areas (sq. ft.)	Land Size (Acres)	Site Coverage	Sale Price (\$)	Time Adjusted Sale Price	\$/Sq. Ft.	Assessed Quality
4415 64 Ave SE	Foothills	2/11/2010	1980	IW S	11,368	0.59	44.23%	\$1,250,000	\$1,382,183	\$121.59	C+
1341 Hastings Cr. SE	Highfield	5/4/2011	1969	IW S	11,637	0.71	37.63%	\$1,600,000	\$1,760,000	\$151.24	C-
#3, 5537 1A St. SW	Manchester	11/28/2011	1981	IW M	14,026	0.50	64.40%	\$1,700,000	\$1,700,000	\$121.20	C+
									AVERAGE	\$131.34	
Subject - Current								Assessed Value			
2915 58 Ave SE	Foothills		1975	IW M	15,600	1.00	35.81%	\$2,120,000		\$135.90	C
Subject - Request								Requested Assessment			
2915 58 Ave SE	Foothills		1975	IW M	15,600	1.00	35.81%	\$1,790,000		\$115.00	C

[10] The Complainant, through its analysis of the three sales established an average assessment rate of \$131.34 per square foot. The Complainant then requested an adjustment of -12.5% from the \$131.34 assessment rate to a revised assessment rate of \$115.00. The Complainant argued -12.5% adjustment was derived from the difference in the assessment rates for the subject property and a comparable property at 3502 62 Avenue SE.

$$\$155.32 - \$135.90 = \$19.42$$

$$(\$19.42 / \$155.32) * 100\% = 12.50\%$$

[11] RealNet documents and City of Calgary "Property Assessment Summary Report" for each sale property supported the Complainant's sales. (C1, Pg. 14-22)

Respondent's Position:

[12] The Respondent, in response to the three sales submitted by the Complainant provided arguments for the lack of suitability of two of the sales as comparables to the subject property and the third property had used the incorrect assessable area. (R1, Pg. 12 - 32)

[13] The Respondent submitted documents from Corporate/Non-Profit Search of the Corporate Registration System that the sale for 1341 Hastings Crescent SE was not an arms length transaction. The documents indicated there was a director in common for both the vendor and purchaser – Thomas MA – and a family relationship between directors in the parties – Holzapfel. (R1, Pg. 13-23)

[14] Further, a copy of the "Non Residential Property Sales Questionnaire" was submitted by the Respondent for the sale of 1341 Hastings Crescent SE, in which, the response to Question 9 - "Was the transaction affected by any of the following conditions" (a) Related parties or corporations", the answer was "Yes". (R1, Pg. 24-27)

[15] With respect to the sale at 4415 64 Avenue SE, the Respondent submitted a copy of the Assessment Request for Information (ARFI) which stated the "Total Rentable Area: 9000 (SQ. FT.) The Respondent noted the Complainant had used an area of 11,368 square feet. The Respondent argued that if the assessable area of 9,000 square feet, as submitted by the City of Calgary, was used the resulting rate would be \$153.58 per square foot. This rate would exceed and support the currently applied rate of \$136.43 per square foot. (R1, Pg. 28-31)

[16] The Respondent noted in testimony for the Board that the sale at 5537 1A Street SW was located in a different market area – Central – and situated on I-R (Industrial Redevelopment) land that is unlike the subject property. In addition, the sale site has 56.84% site coverage in comparison to the subject property at 35.94% site coverage. The Respondent further noted the Complainant had used an area of 14,026 square feet. The Respondent argued that if the correct assessable area was 12,376 square feet and would result in a rate would be \$137.36 per square foot. This rate would exceed and support the currently applied rate of \$136.43 per square foot for the subject property.

[17] The Respondent submitted a 'correction' of the Complainant's two sales comparables, removing the sale at 1341 Hastings Crescent SE as it was a non-arms length sale. (R1, Pg.32)

Address	Building Type	Parcel Size (Acres)	LUD	Building Areas (sq. ft.)	AYOC	Region	NRZ	Finish (%)	Site Coverage (%)	Sale Date.	Sale Price	TASP	TASP/ Sq. Ft.
4415 64 Ave SE	IW M	0.59	I-G	9,000	1980	SE	FH1	0.15	35.17	02/11/ 2010	\$1,250,000	\$1,382,183	\$153.58
#3, 5537 1A St. SW	IW M	0.50	I-R	12,376	1981	Central	SM1	0.48	56.84	11/28/ 2011	\$1,700,000	\$1,700,000	\$137.36

[18] The Respondent submitted a table of four sale comparables in support of the assessment on the subject property. The comparables indicated a range of \$147.83 to \$173.80 per square foot, all exceeding the subject property, with a median of \$151.78. One sale at 4415 64 Avenue SE was common to the Complainant's submission. (R1, Pg. 34)

Address	Building Type	Parcel Size (Acres)	LUD	Building Areas (sq. ft.)	AYOC	Region	NRZ	Finish (%)	Site Coverage (%)	Sale Date	Sale Price	TASP	TASP/ Sq. Ft.
4415 64 Ave SE	IW M	0.59	I-G	9,000	1980	SE	FH1	0.15	35.17	02/11/2010	\$1,250,000	\$1,382,183	\$153.58
3611 60 Ave SE	IW S	1.18	I-G	14,960	1979	SE	FH1	0.40	25.72	11/30/2011	\$2,600,000	\$2,600,000	\$173.80
2625-58 Ave SE	IW S	1.86	I-G	18,432	1975	SE	FH1	0.14	22.04	09/27/2011	\$2,680,000	\$2,764,611	\$149.99
6160 40 St. SE	IWM	1.22	I-G	21,449	1977	SE	FH1	0.21	40.43	06/11/2010	\$2,800,000	\$3,170,699	\$147.83
Median				16,696	1978				30.45				\$151.78
Subject												Ass't	Rate / Sq. Ft.
2915 58 Ave SE	IW M	1.0	I-G	15,600	1975	SE	FH1	0.19	35.94			\$2,128,245	\$136.43

[19] The Respondent submitted the comparables show a fair and correct assessment had been applied to the subject property.

Board's Reasons for Decision:

[20] The Board found the Complainant's argument failed due to circumstances partially beyond its control. The Complainant had relied on misinformation provided on the City of Calgary website. Correction of the assessable areas produced higher assessment rates per square foot than those determined and submitted by the Complainant. These 'corrected' rates support the assessment rate applied to the subject property.

[21] The Board found a total of five sales, presented by the two parties supported the rate applied to the subject property, as each individually exceeded the rate applied to the subject. The range of assessment rates also exceeded the subject property.

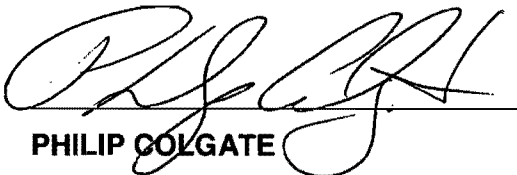
[22] The Board found the Complainant's request for a -12.5% adjustment was not supported through the Complainant's methodology. The Complainant established the requested assessment rate through the averaging of the assessment rates for the individual properties. Each property assessment was a result of the application of differing factors – age, area of the site, site coverage, building area, building finish and if necessary adjustments for the amount of

land. Essentially, each property is unique in its assessment. The Complainant's attempt to imply this uniqueness establishes an adjustment is without merit. The percentage request would be inconsistent, as it would change as individual property details changed. The percentage is unique to this one comparison of the subject property and it's comparable. The Complainant failed to establish the comparability of the two properties, with the exception of quality classification.

[23] The Board noted the continuing problem the City of Calgary has in its published information with respect to the details attributed to the properties in its inventory. The Board found the City of Calgary website's "Property Assessment Detail Report" and the Assessment Business Unit's "Assessment Explanation Supplement" showed a difference in building areas. The result of this discrepancy created requests made by the Complainant based upon faulty information provided by the City of Calgary. Because of this misinformation, complaints have been filed which may not have been submitted if Complainants could rely on the City of Calgary information. The resulting defence of assessments through "ambush" of the Complainant's submissions, with the correct information, serves to delay the complaint process. The Board strongly encourages the City of Calgary to resolve this on-going problem, which has existed for a number of years.

[24] For the reasons cited, the Decision of the Board was to confirm the assessment at **\$2,120,000.00**

DATED AT THE CITY OF CALGARY THIS 5th DAY OF September 2013.



PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Submission
2. R1	Respondent 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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse – Multi Tenant	Sales Approach	Land & Improvement 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.