



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:

MURLEE HOLDINGS LIMITED
(as represented by COBANK PROPERTY TAX SERVICES INC.),
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Glenn, PRESIDING OFFICER
A. Huskinson, BOARD MEMBER
P. Pask, 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:

ROLL NUMBER: 13005300
LOCATION ADDRESS: 6825 11 Street SE
FILE NUMBER: 72060
ASSESSMENT: \$16,030,000

This complaint was heard on Tuesday, the 2nd day of October, 2013 at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 10.

Appeared on behalf of the Complainant:

- J.M. Cohen, Agent

Appeared on behalf of the Respondent:

- R. Farkas, and S.Turner, Assessors

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

[1] When asked, neither party raised any issues with regard to either Jurisdiction or, Procedure regarding this matter.

Property Description:

[2] The subject is a 115,474 SF Big Box building constructed in 1989, located on a 7.10 acre parcel of land, which is used exclusively as a Leon's Furniture Store, and contains both a showroom and a warehouse, which is located in the East Fairview Industrial area of the City.

Issues:

[3] The parties agreed on the record that the sole issue for determination in this matter is the appropriate Rental Rate for the 55,271 SF warehouse area of the subject building.

Complainant's Request:

[4] \$14,257,000

Board's Decision:

[5] The Assessment is confirmed at \$16,030,000

Complainant's Position:

[6] The Complainants noted the current Rental Rate of \$10/SF was appropriate for the 60,203SF showroom area of the subject, but they contended that the warehouse should not be assessed at the same rate.

[7] They provided photographs to illustrate that the two areas were separate and distinct. The warehouse area had a much higher ceiling (40 Feet high) and no discernible finish. Customers are not allowed in the warehouse according to signs posted in the photos.

[8] The Complainant went on to provide several years previous assessments. They also argued that if the two areas in issue were separate buildings, they would each be assessed at the appropriate rates, though they did not provide any evidence of this admonition. The Complainant went on and provided two prior recent CARB decisions on the subject, one of which (**CARB 2522-2011-P**) did not agree with the concept of a uniform rental rate for the subject and found for the Complainant, and the other (**CARB 0990-2012-P**) which did agree with the concept of uniform assessment, found for the Respondent and confirmed the assessment.

[9] Essentially, the Complainant's argument seemed to be that the two separate spaces in the building were in reality two separate buildings, and therefore they should have different assessed rates (Commercial vs Industrial). They went on present a Market Analysis and an Equity Analysis, both of which seemed to show that if the \$10/SF Rental Rate was appropriate for the subject warehouse area, the resulting Market Value per square foot would much higher than the comparables which they provided.

[10] On cross-examination, the Complainant admitted that some of their comparables were not that similar to the subject, that is; some were older, some newer, a couple were similar size, but most were much larger than the subject. Further, on cross examination, the Complainant acknowledged that 50% of the area of the subject was warehouse.

Respondent's Position:

[11] The Respondents argued that their \$10/SF rate assigned to the whole premises was entirely appropriate. They based their argument on both lease and equity comparables which demonstrated that similar retail properties were not treated the way the Complainant had requested.

[12] The Respondent provided a large number of Big Box Store equity comparables which had been assessed at \$10/SF. Most of these comparables were very similar to the subject in that they had storage areas on the premises which were not assessed separately.

[13] The Respondent went on to argue that what they were really seeking was the Market Value, because if a buyer of the property could use the whole space as commercial space, then it could not be classified as Industrial space. Hence, the warehouse (or Industrial) space should not be assessed separately (or at a lower rate).

[14] The Respondent took the point further by stating that the whole subject space could have been used as commercial space, rather than the use for which it was presently used.

[15] The Respondent argued that one of the Complainant's best comparables (The Brick Warehouse) was located in an industrial area, whereas the subject was located in a commercial area. In addition, the Respondent provided a number of Big Box Stores in a rental analysis, where the Median Rental rate was \$10.00/SF and the Mean was \$10.80/SF. All of those comparables were assessed at \$10.00/SF.

[16] Where the Complainant argued that there were two distinct buildings, the Respondent argued there was one distinct building and two distinct heights, and they added: "we don't assess based on height". They completed their argument by stating that the use of this type of building was a matter of choice, that is, just because a portion of a building is used as industrial

does make it industrial. They say that based on Land Use Guidelines, the subject is Commercial, not Industrial, and should be assessed entirely as such.

[17] On cross examination, the Respondent acknowledged that none of their comparables were truly the same as the subject, even though there were many substantial similarities with the subject in their comparables.

Board's Decision:

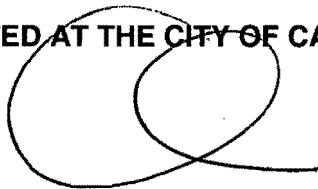
[18] The Board was not unsympathetic to the Complainant's point of view, however, after proper deliberation, the Board decided to confirm the subject assessment. While both parties presented comparables, the comparables presented by the Complainant were simply not enough to convince the Board that a correction to the assessment was necessary. The comparables presented by the Respondent were much stronger in terms of similarity to the subject, and numbers. They supported the assessment.

[19] In addition, the Board did not accept the Complainant's Market Analysis, based on the quality of the comparables used.

[20] In 2012, **CARB 0990-2012-P**, the subject assessment was confirmed based on the Board noting that the Complainant did not provide enough market evidence to support their request for a reduction. The instant matter is a similar circumstance. The Complainants, in the evidence that they called, did not justify to the Board that the assessment was inappropriate.

[21] Based on all the foregoing, the Boards herewith confirms the original assessment on the subject property at the rate of \$10.00/SF, and the total assessment at \$16,030,000.

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



R. Glenn
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Additional Complainant Disclosure
3. C3	Additional Complainant Disclosure
2. 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.*