



## **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:**

***FGL Sports Ltd., (as represented by AEC Property Tax Solutions), COMPLAINANT***

**and**

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

**before:**

**T. B. Hudson, PRESIDING OFFICER  
A. Blake, BOARD MEMBER  
J. Rankin, 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: 033024902**

**LOCATION ADDRESS: 824 41 AV NE**

**FILE NUMBER: 72304**

**ASSESSMENT: \$9,560,000**

This complaint was heard on 15th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *J. Smiley*

Appeared on behalf of the Respondent:

- *M. Hartmann*
- *K. Cody*

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

There were no procedural or jurisdictional matters raised by the parties. However, the Board raised the matter of the signatory to the Assessment Complaints Agent Authorization Form, filed by the Agent for the Complainant. The Matters Relating to Assessment Complaints Regulation (MRAC) in Part 6 General Matters specifies in Section 51:

*An agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed with the clerk or administrator an assessment complaints agent authorization form set out in Schedule 4.*

The Board reviewed the filed Agent Authorization form with the agent for the Complainant, and inquired as to the relationship between the signatory person on the Form, a Mr. John Morrison, and FGL Sports LTD., the owner of the property under complaint.

The Complainant was able to clarify that Mr. Morrison held the position of Senior Manager of Corporate Properties with FGL Sports Ltd., and was authorized to sign the form. The clarification satisfies the requirements of MRAC, and therefore the hearing proceeded.

**Property Description:**

[1] The subject is an IWS type industrial property zoned I-G, and located at 824 41 AV NE in Calgary. The site area is 9.70 acres, and the improvement was constructed in 1954 and includes a net rentable area of 120,954 square feet(sf.) in one building with 14% office finish. Site coverage of 30% is based on the building footprint of 126,726 sf.. The assessment was calculated based on the direct sales comparison approach to a total of \$9,560,000(rounded), or \$79.10 per square foot(psf).

**Issues:**

Is the assessment of the subject property equitable when compared to similar properties that are newer, and have greater "marginal utility" of the land due to superior shape and access?

Does the assessment of the subject property exceed market value?

**Complainant's Requested Value:** \$8,460,000(rounded) or \$70 psf.

**Board Decision on the Assessment:** The assessment is confirmed at \$9,560,000(rounded), or \$79.10 psf.

**Legislative Authority, Requirements and Considerations:**

**[3] The Composite Assessment Review Board(CARB), derives its authority from Part 11 of the Municipal Government Act (MGA) RSA 2000:**

*Section 460.1(2): Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).*

**[4] For purposes of the hearing, the CARB will consider MGA Section 293(1):**

*In preparing the assessment, the assessor must, in a fair and equitable, manner, apply the valuation and other standards set out in the regulations, and follow the procedures set out in the regulations.*

**[5] The Matters Relating to Assessment and Taxation Regulation(MRAT) is the regulation referred to in MGA section 293(1)(b). The CARB consideration will be guided by MRAT Part 1 Standards of Assessment, Mass appraisal section 2:**

*An assessment of property based on market value:  
must be prepared using mass appraisal,  
must be an estimate of the value of the fee simple estate in the property, and  
must reflect typical market conditions for properties similar to that property.*

**Position of the Parties on the Issues:****Assessment Equity Issue****Complainant's Position**

[6] The Complainant argued that, notwithstanding the subject property has less than typical site coverage, it is older, and should be assessed at a similar rate per square foot as newer comparable industrial properties with superior shape and access.. The Complainant submitted photographs to illustrate that, because the subject has an irregular shape and restricted access, the land carries less than typical "marginal utility"; and therefore the current assessment is inequitable and should be reduced.

[7] The Complainant also submitted an equity chart of four comparable properties in support of the request for a reduced assessment. (Exhibit C1 page 9). The property at 2423 2 AV SE was identified by the Complainant as the best example of a newer(i.e. 1973), property with higher (i.e.51%),site coverage, but also superior "marginal utility" due to a rectangular shape and better access than the subject. This comparable is assessed at \$71.25 psf. The other three comparable properties had assessments ranging from \$64.82 to \$80.23 psf., but had significantly larger improvements than the subject.

**Respondent's Position:**

[8] The Respondent advised that the actual site coverage of the subject property is 28%. However, this variable has been adjusted to 30% in recognition of the potential impact of the irregular shape on the assessed market value.

[9] The Respondent also argued that the photographs submitted by both parties illustrate that the shape of the subject parcel does not appear to affect utility in any significant way. The land not covered by the building appears to be used for either parking or storage to maximum capacity.

[10] The Respondent submitted an equity chart of five comparable properties in support of the current assessment.(Exhibit R1 page 22). The assessments of the four properties located in the NE ranged from \$87.43 to \$125.87 psf. The Respondent identified the property 2930 Centre AV NE as the most comparable to the subject with an assessed value of \$92.29 psf. The chart also included the same SE property identified as the best comparable by the Complainant with an assessment of \$71.30 psf.

**Market Value Issue****Complainants Position:**

[10] The Complainant submitted a chart of five sale comparables with time adjusted sale prices ranging from \$70.95 to \$90.12 psf.(Exhibit C1 page 16). The Complainant identified the sale at 303 5 AV SE for a time adjusted sale price of \$73.73 psf., as the best comparable to the subject. The Complainant argued that based on both equity and market sales the subject property is over-assessed compared to similar properties, and therefore a reduction to the requested value of \$70.00 psf. or \$8,460,000(rounded), is appropriate.

**Respondents Position:**

[11] The Respondent also submitted a chart of five sale comparables with time adjusted sale prices ranging from \$70.95 to \$120.51psf., with a median of \$88.90 psf.(Exhibit C1 page 20). The Respondent identified the sales at 3343 54 AV SE at \$70.95 psf., and 3905 29 ST NE at \$88.90 psf., as the best comparables to the subject. The Respondent argued that in the Calgary market it is generally evident that industrial properties trade for more in the NE, than in SE., and the comparable sales, two in the SE and three in the NE, support that relationship.

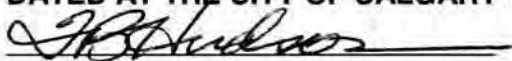
[12] The Respondent noted that only one of the five sale comparables submitted by the Complainant was located in the NE industrial area, at 4100 Westwinds DR. The Respondent also argued that this property is not similar to the subject because it is much larger both in parcel size and net rentable area.

**Board's Reasons for Decision:**

[13] The Board received insufficient evidence to conclude that the assessment of the subject property was inequitable due to the age of the improvement, or to the shape and restricted access to the property. The adjustment by the Respondent to increase the site coverage variable to 30% from 28% in the assessment calculation, recognizes that the shape of the parcel may have a negative influence on market value. However, at the same time, the photographic evidence seems to indicate that the subject property is currently being used to maximum capacity.

[14] The market sale evidence submitted by both parties supports the position of the Respondent, that NE industrial property trades for higher values when compared to similar property in the SE. The market evidence submitted by the Complainant includes only one sale of a NE industrial property, and one which is much larger than the subject in both parcel size and net rental area. On a balance of probabilities, the Board concludes that the current assessment does not exceed the market value of the subject.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF August 2013.



**T. B. Hudson**

**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

*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 MGB Administrative Use Only**

<i>Decision No. 72304P-2013</i>			<i>Roll No.033024902</i>	
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Sub-Type</i></u>	<u><i>Issue</i></u>	<u><i>Sub-Issue</i></u>
CARB	Industrial	IWS	Market value	Equity