



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:

Kamcor GP Inc. (as represented by MNP LLP), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, D. Morice
Board Member, P. McKenna***

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 2014 Assessment Roll as follows:

ROLL NUMBER: 023122500

LOCATION ADDRESS: 612 Beaver Dam Road NE

FILE NUMBER: 74900

ASSESSMENT: \$4,650,000

This complaint was heard on the 30th day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *G. Langelaar, Agent, MNP LLP*
- *Y. Lau, Agent, MNP LLP*

Appeared on behalf of the Respondent:

- *F. Taciune, Assessor, City of Calgary*

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

- [1] There were no procedural or jurisdictional matters raised by either party.

Property Description:

(2) The subject is a single tenant warehouse, located in the Skyline West community in NE Calgary. The building contains 4,144 square feet (s.f.) of assessable space. The building was built in 1993, and is classified as a class "C" building. The assessable land area is 5.01 acres. Site coverage is 2.26 per cent.

Issues:

- (3) The property is currently being assessed by the City as land only, plus the depreciated cost of the improvements.
- (4) The Complainant argues that the land rate used by the City is excessive, and does not properly reflect market value.
- (5) The Complainant also argues that the subject property sold in September, 2012, for \$4,000,000. Evidence to verify that assertion was submitted by the Complainant, and was not disputed by the Respondent.

Complainant's Requested Value: \$4,000,000

Board's Decision:

- (6) The assessment is reduced to \$4,000,000.

Legislative Authority, Requirements and Considerations:

- (7) This Board derives its authority from section 460.1(2) of the Act.

- (8) Section 2 of MRAT states as follows;
"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"

(9) Section 467(3) of the Municipal Government Act states;

"An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(c) the assessments of similar property or businesses in the same municipality."

(10) For purposes of this Complaint, there are no extraneous requirements or factors that require consideration.

(11) The Board notes that the assessment has increased from \$4,330,000 in 2013, to \$4,650,000 in 2014.

Position/Evidence of the Parties

(12) In support of the request, the Complainant submitted five comparable land sales in the NE quadrant that have sold since November, 2011. Parcel sizes range from 4.48 to 6.60 acres. The median and average selling price is \$762,762 and \$755,074 per acre. By adopting the median the Complainant arrives at an assessment of \$3,821,437.

(13) The Respondent did not provide the calculations leading to the current assessment. However, the Respondent provided the City's 2014 Industrial Land Values summary. That summary indicates that I-G land in the NE quadrant is assessed at a rate of three acres at \$1,035,000, and the remainder at \$645,000. By simple arithmetic, the Board calculates the City's improvement assessment to be \$248,550.

Findings and Reasons for Decision:

(27) As far as the 2012 sale of the subject is concerned, the Board refers to the "Acton" decision of the Court of Queen's Bench, 2005 ABQB 512, in which it states;

"it seems to me to be worth remembering that where the Assessment Act, R.S.O. 1980, c.31 requires the determination of what a property might be expected to realize if sold on the open market by a willing seller to a willing buyer (s. 18(2), the price paid in a recent free sale of the subject property itself, where, as is this case, there are neither changes in the market nor to the property in the interval, must be very compelling evidence indeed as to what the market value of the property is. It is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.

...

...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value."

(28) This Board is of the opinion that the key phrase in the Acton decision is *"where.....there are neither changes in the market nor to the property in the interval...."*. It is a commonly accepted fact that Calgary has a fluid real estate market where property values are either increasing or decreasing

at any given time. However, neither party provided any evidence of any market changes since the 2012 sale of the subject.

(29) This Board is of the opinion that the best indicator of market value of a property is a recent arms length sale of the property itself, as outlined in the Acton decision of the Court of Queens Bench.

DATED AT THE CITY OF CALGARY THIS

14

DAY OF August, 2014.

Presiding Officer



Jerry Zezulka

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

NO.	ITEM
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| 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.*

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Decision No. CARB 74900P/2014			Roll No. 023122500	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Land	Market Value	Selling price as value.	Selling price as value