Calgary Assessment Review Board

DECISION WITH REASONS & DISSENTING OPINION

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:

Metrus Western Properties Inc.
(as represented by AEC Property Tax Solutions), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
D. Morice, BOARD MEMBER
D. Julien, 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 2014 Assessment Roll as follows:

ROLL NUMBER: **031021108**

LOCATION ADDRESS: **3400 39 AV NE**

FILE NUMBER: **75309**

ASSESSMENT: **$133,240,000**

This complaint was heard from the 14th to the 16th day of July, 2014 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* *Agent, AEC Property Tax Solutions*
- *B. Dell* *Solicitor, Wilson Laycraft*
- *M. Tozer* *Accredited Appraiser, CDC Consulting Services Inc.*
- *M. Kudrycki* *Agent, AEC Property Tax Solutions*

Appeared on behalf of the Respondent:

- *G. Foty* *Assessor, The City of Calgary*
- *N. Irving* *Solicitor, The City of Calgary*

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

(1) The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. During the course of the hearing, the parties raised the following procedural or jurisdictional matters which are addressed below.

Preliminary Issue 1: The Respondent failed to provide the requested information regarding the subject's assessment in accordance with *Section 299 & 300* of *the Act*.

Legislative Authority, Requirements and Considerations:

(2) Access to assessment record

299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive sufficient information to show how the assessor prepared the assessment of that person's property.

(1.1) For the purposes of subsection (1), "sufficient information" in respect of a person's property must include

(a) all documents, records and other information in respect of that property that the assessor has in the assessor's possession or under the assessor's control,

(b) the key factors, components and variables of the valuation model applied in preparing the assessment of the property, and

(c) any other information prescribed or otherwise described in the regulations.

(2) The municipality must, in accordance with the regulations, comply with a request under subsection (1).

Access to summary of assessment

300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the assessment of any assessed property in the municipality.

(1.1) For the purposes of subsection (1), a summary of an assessment must include the following information that the assessor has in the assessor's possession or under the Assessor's control:

(a) a description of the parcel of land and any improvements, to identify the type and use of the property;

(b) the size of the parcel of land;

(c) the age and size or measurement of any improvements;

(d) the key factors, components and variables of the valuation model applied in preparing the assessment of the property;

(e) any other information prescribed or otherwise described in the regulations.

(2) The municipality must, in accordance with the regulations, comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.

Complainant's Position:

The Complainant provided a 117 page document entitled "Complainant's Submission of Rebuttal" that was entered into the hearing as "Exhibit C1" and a 65 page document entitled "Rebuttal Submission of the Complainant" that was entered into the hearing as "Exhibit C2". The Complainant along with Exhibits C1 and C2 provided the following evidence and argument with respect to this issue:

(3) The Complainant stated that the Respondent had failed to provide all the necessary documentation and information requested under *section 299* and *300 of the Act,* via a March 17, 2014 letter from Mr. Smiley to the City Assessor and a City of Calgary 2014 Property Assessment Information Request (PAIR) dated March 24, 2014. The PAIR response of the City Assessor provided information specifically related to the subject's Sales Comparison Approach (SCA) assessment valuation including:

(a) an Assessment Explanation Supplement (AES) of the subject,

(b) AES documents for three comparable properties to the subject,

(c) an assessment information package of the subject, outlining the inputs used in the Assessor's SCA valuation of the subject that included time adjustment factors, stratifications, variables used in the multiple regression model, sales of properties used in the development of the multiple regression model and third party resources, and

(d) the most recent Assessment Request for Information (ARFI) document received by the Assessment Business Unit of the City of Calgary.

(4) The Complainant noted that the Respondent's disclosure addressing the merit portion of the complaint contained information on the assessment of the subject property assessed through the Cost Approach (CA) and the Income Approach (IA). The Complainant argued that since the Respondent had not provided this information through the *section 299/300* request, the Respondent had not fully complied with the *section 299/300*

request and therefore requested that the specific pages referencing that documentation be removed from the Respondent's evidence and not be considered by the CARB.

Respondent's Position:

(5) The Respondent countered that it had substantially complied with the *section 299/300* request. The assessment of the subject was done through the SCA valuation model and accordingly, substantive information related to the subject property's SCA valuation was provided to the Complainant. At the time of the *section 299/300* request, the CA and IA valuation models were not considered in the subject's assessment. Those valuation models were only provided during the disclosure portion of the complaint process and were provided in response to the Complainant's disclosure. Therefore, the Respondent contended that it had complied with the *section 299/300 request* and the CARB should consider the Respondent's evidence in its entirety.

Board Preliminary Issue Findings:

(6) The CARB considered the positions of the parties and determined that the Respondent had substantively provided sufficient information to the Complainant's *section 299/300* request. The CARB notes that the *section 299/300* request deals specifically with providing the "assessed person" sufficient information related to the valuation model used by the assessor in the subject's assessment. In the opinion of the CARB, the Respondent had substantively complied with the request by providing information related to the subject's SCA valuation. The CARB agrees with the Respondent that information related to the Respondent's CA and IA valuation was simply a response to the Complainant's disclosure provided by the Complainant during the disclosure process of the complaint. Therefore, the CARB determined that the Respondent's evidence would be heard in its entirety and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

(7) The subject property contains one single-tenanted industrial warehouse (IWS) building, located in the Horizon Industrial district of NE Calgary and is zoned Industrial - General (I-G). According to the information provided by the Respondent, the building has an assessable area of 1,187,853 square feet (sf), was constructed in 2000 and has no office finish. The building is situated on an assessable land area of 128.79 acres, is considered to have 36.89 acres of extra land and has a site coverage of 21.41%.

(8) The subject is assessed using the SCA to value at a rate of $112.18 per sf, which includes a valuation for the extra land component.

Issues:

(9) The Complainant addressed the following issue at this hearing:

(a) The subject property's assessment is in excess of its market value as indicated by market evidence and is not equitable with other comparable properties.

Complainant's Requested Value: $90,000,000

Board's Decision:

(10) By a majority decision of the Board the complaint is accepted in part and the assessment is revised at $119,450,000. The Board is unanimous in its view that the assessed value of $133,240,000 is excessive. However the Board disagrees on the amount of a reduction. The decision is not unanimous.

Legislative Authority, Requirements and Considerations:

(11) As in accordance with the Act Section 467(3),

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

a) The valuation and other standards set out in the regulations,

b) The procedures set out in the regulations, and

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

<u>Position of the Parties</u>

ISSUE 1: The subject property's assessment is in excess of its market value as indicated by market sales evidence and is not equitable with other comparable properties.

Complainant's Position:

The Complainant provided a 76 page appraisal document entitled "Valuation Analysis" that was entered into the hearing as "Exhibit C3." The Complainant along with Exhibit C3 provided the following evidence and argument with respect to this issue:

(12) The purpose of the appraisal was to estimate market value retrospectively to July 1, 2013 in Fee Simple estate. In doing so, Mr. Tozer offered three approaches to valuing the subject property:

(a) the CA, valued at $93,050,000,

(b) the SCA, valued at $89,500,000, and

(c) the IA, valued at $88,450,000.

The final estimate of market value was $90,000,000, which was a reconciliation of the above three approaches. (The Board notes that the SCA and IA values were reversed on page 7 and 58 of the appraisal report.)

(13) A summary of the CA revealed the following:

(a) Replacement cost new	$92,982,000
(b) Physical depreciation (17%)	-$15,915,500
(c) Economic depreciation (30%)	-$23,119,950

(d) Contributory value of site improvements $13,360,000

(e) Estimated value of land $25,750,000

(f) Indicated value by the CA $93,056,550

(14) The SCA compared the sales transactions of four industrial warehouse properties. In comparing the four properties, consideration was given to attributes such as market conditions, physical characteristics, age and site coverage ratios. The analysis of the comparables resulted in an adjusted sales per sf range of $66 to $86. Of the four sales comparables the appraiser placed the most weight on the property located at 10 Smed LN SE, which was a purpose-built manufacturing facility constructed in 1999. The Smed property had a building area of 767,000 sf on a 45.06 acre site, with a 36.61% site coverage ratio and was considered the closest comparable the subject in terms of size. No adjustments were made to the Smed property for the improvements.

(15) The IA used the following variables in its analysis:

(a) an estimated market lease rate of $6.50,

(b) a vacancy and collection loss allowance of 7.50%,

(c) a structural allowance of 2%, and

(d) a capitalization (cap) rate of 7.50% plus.

The Complainant also provided a 114 page document entitled "Complainant's Submission of Evidence" that was entered into the hearing as "Exhibit C4" and a 204 page document entitled "Submission of Wal-Mart Canada Corp." that was entered during the hearing as "Exhibit C5". The Complainant together with Exhibits C4 and C5 provided the following evidence and argument with respect to this issue:

(16) The Complainant analyzed the information provided by the Respondent under the aforementioned 299/300 request. The Complainant determined that the SCA model used by the Respondent in the assessment of the subject contained no representation of any similar mega-warehouse (over 500,000 sf) industrial properties and gave no consideration to economies of scale. It was concluded that of the 177 sales of industrial warehouse properties that the Respondent used in the development of its sales model:

(a) 82% had a building size under 50,000 sf,

(b) 14% had a building size between 50,001 and 100,000 sf,

(c) 4% had a building size between 100,001 and 200,000 sf, and

(d) 0% had a building size between over 200,000 sf.

(17) The Complainant offered an analysis of a large warehouse industrial property sale that occurred on June 6, 2013. The sale at 6810 40 ST SE was vacant at the time of transfer and sold for $8,600,000 or $34.81 per sf. The property included a 247,093 sf building that was constructed in 1977 and was previously used as a Loblaw distribution centre. The sale included a 1.92 acre vacant parcel of land across the street from the warehouse building that was to be used for parking. The Complainant noted that the 2013 assessment of the property was previously valued at $60.00 per sf but in 2014 the assessment was reduced by 45% to seemingly reflect the property's sale price per sf.

(18) The Complainant also offered an another analysis of a large warehouse industrial property sale that occurred on August 8, 2013, arguing that the sale actually occurred prior to the valuation date of July 1, 2013, since there was a 60 day due diligence period.

The aforementioned mega-warehouse Smed property was purpose built in 1999 as a manufacturing facility for office furniture and after a transfer of operations out of Calgary, was listed for sale in 2010. The sale at 10 Smed LN SE, also vacant at the time of transfer, sold for $45,850,000 or $60.56 per sf. The property included a 757,072 sf building situated on a 45.02 acre parcel of land. The Complainant again noted that the 2013 assessment of the property was previously valued at $61,670,000 but was subsequently reduced after the sale to seemingly reflect the property's sale price. The 2014 Assessment Explanation Supplement (AES) showed that the Smed property is assessed at a rate of $82.77 but then reduced 25% for what the Respondent cited as functional obsolescence.

(19) As an alternative, the Complainant explored an IA approach valuation on the subject property. The Complainant first offered IA valuations using a $5.75 rental rate with corresponding cap rates ranging from 6.25% to 7.50% that resulted in valuations ranging from $82.8 million to $99.3 million. In another set of calculations, the Complainant offered IA valuations using a $6.25 rental rate arguing that the higher rental rate would accommodate the excess land component that the subject property enjoys. Using the same range cap rates as in the previous calculations, the valuations ranged from $90.2 million to $108.2 million.

Respondent's Position:

The Respondent provided a 348 page document entitled "Assessment Brief" that was entered into the hearing as "Exhibit R1" and a legal brief from the Law Department of the City of Calgary that was entered into the hearing as "Exhibit R2". The Respondent along with Exhibits R1 and R2 provided the following evidence and argument with respect to this issue:

(20) A copy of the prior year's CARB decision on the 2013 assessment complaint that confirmed the 2013 assessment of the subject property.

(21) In response to the Complainant's Smed sale comparable, the Respondent cited the sale included vendor financing which would make it an atypical sale. In addition, the Respondent highlighted the Smed property is not comparable to the subject property because it has 75,000 sf of first class office space, a 12,000 sf cafeteria, a 10,000 sf fitness centre with gymnasium and has only 18 loading dock doors. Further, the warehouse has only 24 foot ceiling heights, which are atypical to the standard 28 foot to 32 foot ceiling heights and the subject's 38 foot ceiling height. In addition, the Smed property had been listed for sale since 2010 as a vacant manufacturing facility. There was a very limited market for this type of facility.

(22) The Respondent also cited the listing realtor. Newmark Knight Frank Devencore's assessment of the SMED property, which included an IA valuation of the property. The IA valuation included rental rates of $14.00 and $16.00 per sf for the office space and $4.00 and $4.25 for the manufacturing space. The income generated from these two scenarios used cap rates of 6.75% and 6.25% to arrive at valuations of $78.35 per sf and $92.23 per sf respectively. However, the realtor outlined that significant investments in hard costs (over $3.5 million) and soft costs (over $16 million) would be required to make the property more functional, concluding that the valuation rates after these investments would range from $54.34 to $67.56 per sf.

(23) In response to the Complainant's Loblaw sale comparable, the Respondent argued that the property has required significant upgrading since the time of sale and included various building permits totaling over $1.75 million in value. In addition, the Respondent

provided a copy of the ARFI concerning the sale of the Loblaw property. It was noted that major repairs or capital expenditures would be needed for roof and loading dock repairs, structural modifications and new sprinklers. Finally, the Respondent provided a copy of the first page of an appraisal completed on the Loblaw property by Colliers International. According to the letter, the property was valued at $12,100,000 as at April 1, 2013.

(24) In response to the Complainant's CA valuation, the Respondent offered an alternative CA approach valuation assessing the subject property as follows:

(a) Basic structure cost	$95,478,136
(b) Physical depreciation	-$15,204,237
(c) Total improvement value	$80,273,899
(d) Estimated value of land	$42,460,320
(e) Total assessment value	$122,734,219

(25) In response to the Complainant's IA valuation, the Respondent combined the Complainant's lease comparables and some additional lease comparables, but made adjustments for characteristics such as land size and site coverage to make them comparable to the subject property. In doing so, the Respondent derived lease rates ranging from $4.62 to $8.40 per sf and capitalized the resulting net operating income (NOI) calculation using cap rates ranging from 6.50% to 7.00%. The Respondent placed the greatest weight on the 6.75% cap rate and determined that most reliance could be placed on the valuation that generated an IA approach valuation of $107.27 per sf for the subject property. The Complainant's appraisal uses a typical rent of $6.50 per sf despite third party reports (included in the same appraisal) stating that the average rent in 2013 varied from $8.51 to $8.63. The Respondent also included the recent ARFI on the subject property that revealed a lease with a commencement date of August 15, 2000, with a term of 20 years expiring in 2020. The lease rate indicated was $9.89 per sf.

Complainant's Rebuttal:

In rebuttal, the Complainant along with Exhibits C1 and C2 provided the following evidence and argument with respect to this issue:

(26) Argument that the lease rates used by the Respondent in its IA valuation are speculative with no evidence to support how lease rates are affected by site coverage.

(27) Argument that the repairs completed on the Loblaw property after the sale were not atypical and were characteristic of leasehold improvements that are typically not valued into the real estate at time of sale.

Board Findings and Reasons for the Majority Decision:

(28) The Appraisal submitted by the Complainant utilizes three approaches to value ranging from $88,450,000 to $93,050,000 effective July 1, 2013 in consideration of the physical characteristics at December 31, 2013. The value conclusion is $90,000,000.

(29) The subject property is unique and is atypical in the Calgary real estate market. At over one million sf, its massive size surpasses even the largest of the mega distribution warehouses located elsewhere in the City. It cannot be compared with large warehouses

that might typically be 100,000 to 300,000 sf. As previously noted, the subject is a modern 1,187,853 sf distribution warehouse on a 128.79 acre site with 21.41% site coverage.

(30) The Board notes the comparison in the Appraisal between 10 Smed Ln SE and 6810 40 St. SE to the subject property. The greatest weight was given to the Smed property. Although both parties discussed the Loblaw property to a degree, too many adjustments would have to be made, calling into question the reliability of this sale. The Board didn't consider it.

(31) Based on a plethora of photos submitted in evidence from both parties, it is clear the Smed property is a manufacturing facility warehouse quite unlike the subject, a distribution centre. Clearly, there is no comparison between the Smed manufacturing warehouse and the Wal-Mart distribution centre. It would appear from the Board's perspective that the Sales Comparison Approach is not relevant to the subject property.

(32) With respect to the Income Approach, the Appraiser uses the Direct Capitalization method in which five properties with lease rates ranging from $6.50 to $7.10 per square foot were selected. The Appraiser chooses the bottom range, ($6.50 per square foot) based on size and age of subject. Other allowances are made based on judgment and experience. Calculating the overall capitalization rate, the Appraiser uses five properties of which only two are within the Calgary municipality. Cap rates range from 6.54 to 7.98% to produce a range of value $87,875,000 to $90,805,000 a midpoint value of $89,500,000 is struck by the Appraiser.

(33) It was noted earlier in the Appraisal report for industrial property of all types that the range between northeast and southeast rental rates in 2013 was $8.51 to $8.63 per sf while the five comparables chosen range between $6.50 to $7.10 per square foot and the Appraiser chooses the low end of the range at $6.50 per square foot. The Board also has difficulty accepting the cap rate because three of the five comparables used are outside the Calgary municipality.

(34) Considering the above rates are the most important factors in the Income Approach, the reliability of this method causes uncertainty and for these reasons the Board dismisses this valuation method for the subject property.

(35) In the absence of any comparables remotely similar to the subject, the Board finds that both the IA and the SCA would require substantial adjustments to be made. The resulting valuation estimates would in the Board's (majority) opinion be very unreliable as an indicator of market value as of July 1, 2013. The Board therefore determined that, as a special purpose property, the cost approach is the best valuation method under the circumstances.

(36) The Appraiser, in the Cost Approach introduced Economic Depreciation in his adjustment process. This term refers to negative influences caused by outside forces which will affect the value of real estate. The Appraiser states the subject, due to its fixed location and external forces, suffers from economic depreciation. Later in the Direct Comparison Approach, the Appraiser provides an example, (sale of Smed property) how this form of depreciation is measured and applies this amount to the subject. The Board is puzzled by how this applies to the subject as there was a 20 year lease ($9.89 per square foot, actual) in place at the point of construction and the building has a remaining effective economic life of 50 years as stated by the Appraiser. It was specifically built as a distribution centre. Secondly, how do older and newer warehouses with much smaller

site and building areas compare to an atypical warehouse and how does Index #4 a special purpose type building (Kraft Canada), compare to the subject?

(37) Should the economic depreciation described above be removed from the Appraiser's Cost Approach, the Board notes that the revised value conclusion would be $116,176,500. With the Respondent's Cost Approach left intact, the value conclusion is $122,734,219. The midpoint between these two values is $119,455,359. The Board selected this midpoint value (truncated to $119,450,000) as the most probable indication of the subject's market value.

Board's Majority Decision:

(38) Accordingly, the Board reduced the assessment to $119,450,000.

D. Morice

D. Julien

DISSENTING OPINION

(39) I disagree that the best measure of the subject's market value should be solely through a CA valuation or in this case, an adjusted CA offered by the Complainant, which is then averaged with a CA offered by the Respondent. After all, the Respondent had all valuation approaches at its disposal and chose the SCA as the best valuation approach in determining the subject's assessment. I agree with the Respondent's approach and it is clear that both parties chose the SCA in the subject's valuation. Therefore, it appears that other than its size both parties agree that the subject property has attributes that allow some comparability to other industrial warehouse properties. So, to my mind it is not whether or not the SCA should be used in the subject's valuation but whether or not the data used and calculations derived out of that data, are supported in the marketplace. I disagree with my colleagues that only the CA can be used in this instance, given that there is agreement on this issue by both parties that the SCA would provide the best indicator of market value for the subject property. Moreover, the SCA is evidence-based from the market and provides a reliable indicator of value so long as there are sufficient comparable sales. In contrast, the CA is not necessarily market-based and may provide a good indicator of value only in instances where there are newly constructed or special purpose properties. I would argue that those two scenarios are absent in the case of the subject and therefore the CA should only play a supportive role to other generally accepted approaches to value, as cost and market value are not always synonymous.

(40) The Respondent provided little argument or evidence in support or defense of its SCA assessment. Indeed the only analysis of the Respondent's SCA was provided by the Complainant through its *Section 299* request. That analysis and the lack of the Respondent's defense of its SCA model made it clear to this CARB member that the Respondent's SCA model may be flawed, particularly when it was utilized in the assessment of large industrial warehouse properties (over 200,000 sf). First, there was no representation of any similar mega-warehouse properties in the SCA model that was used in the subject's assessment. Fully 96% of the Respondent's SCA model were of industrial warehouse property sales under 100,000 sf, with no representation of any industrial warehouse property sales over 200,000 sf. Second, the Complainant was able to provide two glaring examples where significant reductions were made to the assessments of large industrial warehouse properties that were assessed using the same SCA model. The first example was the Smed property. The assessment of the Smed property was done on the SCA approach apparently using the same industrial sales model as was used on the subject's assessment. According to a copy of the 2014 AES the SCA model predicted a $62,660,079 ($82.77 per sf) value for SMED but it was reduced 25% to $46,995,059 ($62.07 per sf), which the Respondent argued was due to functional obsolescence but arguably had more to do with reflecting its sales price. The second example was the Loblaw's distribution warehouse. Again, the assessment of the Loblaw property was done on the SCA using the same industrial sales model as was used on the subject's assessment. In this case, the model predicted a 2014 assessment value of $15,802,800 ($60.00 per sf) but was reduced 45% to $8,691,540 ($33.00 per sf), which the Respondent argued was due to impending demolition but again, arguably has more to do with reflecting its sales price. From an equity perspective, it can be argued that the subject property should enjoy similar reductions as the Smed and Loblaw properties, given that they were assessed in the same manner (SCA), using the same industrial warehouse sales as were used on the subject property. Although this equity argument is insufficient on its own merits, when taken in context with the entire body of evidence and argument of the Complainant, it is not an unreasonable request.

For example, if a median or average (35%) reduction of the Smed and Loblaw properties were considered, the value derived from this equitable reduction would be $86,606,000, which is supportive of the $90,000,000 requested assessment.

(41) It was suggested by the Complainant that the Respondent imposes $60 per sf minimum value on industrial warehouse properties over 200,000 sf. The Loblaw property (as originally assessed) and a comparable property (see Exhibit C1, page 51) provided under the *Section 299* request support this valuation minimum threshold. In the case of the subject, this factor of $60.00 per sf applied to the subject's 1,187,853 sf would result in a value of $71,271,180. However, an extra land factor as calculated by the Complainant totaling $17,904,525 (see Exhibit C4, page 70) would need to be added. This would result in a total valuation of $89,175,705 and again supportive of the $90,000,000 request.

(42) There is no question that a key difference between my position and that of my colleagues is the acceptance of the Smed property as a reasonable sale comparable to the subject property. It should be noted however, that Mr. Tozer used four properties in his SCA, not just Smed. Each of those properties in my opinion, were far superior comparables to the subject than what were used by the Respondent in the development of its SCA valuation model. First, all four comparable properties used by Mr. Tozer were over 200,000 sf, with reasonable ranges of sales dates, ages and site coverages. Admittedly, the Smed property was highlighted as the best of those comparables in terms of sales date, age, site area and in particular building size. The Respondent argued that the Smed property is not comparable to the subject as it was built as a manufacturing facility with low ceiling heights, few loading docks, has significantly more and better office space and has a gymnasium. While that may all be true, I believe that it is the closest comparable in terms of building size to the subject property and that after all, is what makes the subject property most unique. Moreover, if the Respondent truly believes that the Smed property is so unique that it defies any comparability to any property, then why does it assess the property as a warehouse using the same SCA model that was used on the subject property? According to the Respondent's own evidence (Exhibit R1, page 149), the 2014 Property Assessment Detail Report (PADR) indicates the Smed property as having a sub-property use of IN0606 Warehouse - with less than 2 units and is valued on the SCA. The identical sub-property use and assessment approach identified for the subject property. Conversely, the Respondent provided evidence of another of Mr. Tozer's comparables (4700 47 ST SE) that it deemed not comparable to the subject property. In this instance, the Respondent considered it a manufacturing facility and was assessed using the CA (see Exhibit R1, page 147). In terms of ceiling height, I agree that common sense would tell you that two warehouse properties with appreciably different ceiling heights might garner different market values, all other things being equal. However, I must again reference the City of Calgary's own assessment materials. As part of the Complainant's *Section 299* request, the Respondent provided evidence that suggests industrial properties are not assessed using ceiling height as a key component or variable. According to Exhibit C1, page 59; "The significant characteristics that affect value of industrial warehouses assessed on the sales approach:

(a) Building type: single, multi-tenant or out building

(b) Assessable building area

(c) Actual year of construction

(d) Region/Location

(e) Interior Finish Ratio

(f) Site Coverage

(g) Multiple Buildings

(h) Land Use

(i) Average Unit Size"

In terms of loading docks and other deficiencies of the Smed building as cited by the Respondent; the only evidence to support these deficiencies is referenced in the Newmark Knight Frank Devencore's letter to Haworth Inc. dated October 25, 2012. In that report, the writer indicated the loading dock deficiencies would cost approximately $1 million to rectify, and other deficiencies such as site work and demising walls would add almost $2.6 million. This hardly accounts for the almost $15.7 million reduction in Smed's assessment. In terms of office space; it seems that in reviewing the details of the subject's appraisal and various photographs provided by both parties, the subject has significant office space (50,879 sf), which is seemingly comparable to Smed but simply not recognized by the Respondent in the details of its assessment. It seems to me that the Respondent's argument around Smed's comparability to the subject contradicts certain aspects of its own evidence. I therefore accept Mr. Tozer's SCA approach in its entirety valuing the subject property at $88,450,000 in support of the requested $90,000,000 assessment.

(43) There are obviously two differing opinions of value generated from the CA used by Mr. Tozer versus that of the Respondent. The largest difference of value between the two parties being attributable to what Mr. Tozer refers to as "economic depreciation". Admittedly, economic depreciation or obsolescence is a difficult parameter to quantify and certainly Mr. Tozer expressed this sentiment during his testimony. In reviewing the conclusions of my two colleagues, it appears they have rejected the notion of obsolescence and its affect on the subject property entirely. I again respectfully disagree with that conclusion. In Exhibit R1, page 145, the Respondent speaks to Mr. Tozer's analysis of the 30% economic depreciation and offers that the subject may indeed suffer from some form of obsolescence but the affect on the subject property should only be 8.54%. Again, common sense would dictate that the subject property, like the Smed property, would suffer from some form of obsolescence (economic or functional) simply because of its size and resulting economies of scale and this was supported in its sale. It is arguable therefore, that rather then adjust Mr. Tozer's CA value by removing economic obsolescence (as my colleagues have done), they should have reduced the Respondent's conclusion of value under the CA approach by 9%. If this had been done the average or median value of the two CA positions would be $102,369,000, which is only mildly supportive of the requested $90,000,000 assessment but is certainly not supportive of the current assessment nor the valuation derived from my colleagues.

(44) The Complainant, as a further support to the $90,000,000 assessment request, offered two separate IA valuations. In the case of Mr. Tozer, a $6.50 per sf net market rental rate was derived from five industrial warehouse property leases occupying areas between 111,120 sf and 439,232 sf. The net operating income calculated was then capitalized using cap rates of 7.50% and 7.75% respectively. The cap rates were derived from five large industrial warehouse properties 2 of which were within the city limits. In support of Mr. Tozer's calculations, the Complainant also provided separate IA calculations using rental rates derived from six recently signed larger industrial warehouse leases and cap rates derived from third party reports. In response, the

Respondent provided a very complicated spreadsheet analyzing and comparing all the lease comparables provided by both parties. In doing so, the Respondent somehow adjusted the lease rates for factors such as site coverage in order to make them comparable to the subject. In reviewing the two IA valuations from both parties I cannot accept the calculations provided by the Respondent. The Complainant supported lease rates used in its IA valuation by analyzing lease rates of comparable properties. The Respondent derived lease rates by simply making adjustments to comparable property lease rates to account for deficiencies in site coverage when compared to the subject. Those adjustments are speculative in nature and are not supported with market evidence.

(45) The subject property is indeed a unique property that serves as the largest distribution centre within the City of Calgary and possibly regionally, beyond its boundary. The uniqueness of the subject in terms of its size however does not mean that various approaches to value ought not be considered in its assessment. I would argue that all approaches to value should be considered precisely because of its uniqueness and hopefully support and complement one another. I believe that this is what the Complainant has done and is in stark contrast to the approach taken by the Respondent. The Respondent simply offered alternate calculations to the Complainant's CA and IA valuations and made no attempt to defend its SCA assessment. Therefore, it is my position that the Complainant's requested assessment is accepted and should be reduced to $90,000,000.

DATED AT THE CITY OF CALGARY THIS 19th **DAY OF** September **2014.**

M. Vercillo

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Rebuttal
2. C2	Complainant Legal Rebuttal
3. C3	Complainant Valuation Analysis
4. C4	Complainant Disclosure
5. C5	Complainant Legal Brief
6. R1	Respondent Disclosure
7. R2	Respondent Legal Brief

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 Office Only)

Appeal Type	Property Type	Property Sub-type	Issue	Sub-issue
CARB	Warehouse	Warehouse Multi-Tenant	Sales Approach	Equity Comparables