



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:

**PAULINA HOLDINGS LTD.
(represented by Altus Group), COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

**M. CHILIBECK, PRESIDING OFFICER
G. MILNE, BOARD MEMBER
R. KODAK, 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: 034187500

LOCATION ADDRESS: 423 – 38 AV NE

FILE NUMBER: 75617

ASSESSMENT: \$1,390,000.

This complaint was heard on 10th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *M. Robinson, Agent of Altus Group*

Appeared on behalf of the Respondent:

- *M. Hartmann, Property Assessor of the City of Calgary*

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

- [1] Neither party raised any objections to any member of the Board hearing the subject complaint
- [2] Neither party raised any procedural or jurisdictional matters.

Preliminary Matter:

- [3] Neither party raised any preliminary matter(s).

Property Description:

- [4] The subject property is a developed parcel of industrial land with 0.81 acres, designated Industrial-Redevelopment (I-R) improved with one multi-bay warehouse building with three units constructed in 1978. The assessed building area is 14,884 sq. ft. and has 17% finish. The building footprint area is 14,884 sq. ft. for a site coverage at 42.34%.
- [5] The subject is located on 38 AV in between Edmonton Trail and 3A ST in Greenview Industrial Park located in the northeast quadrant of the City of Calgary.

Issues:

- [6] The Complainant identified the matter of the assessment amount under complaint on the complaint form and attached a schedule listing several reasons (grounds) for the complaint. At the outset of the hearing the Complainant identified the following issue:
- 1) The subject property is in excess of its market value for assessment purposes.
 - i. The subject property sold in June, 2012 in an open market and brokered transaction and the time adjusted sale price (TASP) at July 1, 2013 should be the assessed value for the subject property.

Complainant's Requested Value: \$1,220,000.

Board's Decision:

[7] Change the assessment to **\$1,220,000**.

Legislative Authority, Requirements and Considerations:

[8] The Composite Assessment Review Board (CARB) derives its authority from Part 11 of the Act:

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).

[9] For purposes of the hearing, the CARB will consider section 293(1) of the Act:

In preparing the assessment, the assessor must, in a fair and equitable manner,

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

(b) follow the procedures set out in the regulations

[10] 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

(a) must be prepared using mass appraisal

(b) must be an estimate of the value of the fee simple estate in the property

(c) must reflect typical market conditions for properties similar to that property

Assessment Background:

[11] The subject property is assessed using the direct sales comparison method at an aggregate rate of \$99.53 per sq. ft. of assessable building area less an adjustment (market) of 6%. This results in a net aggregate assessment rate of \$93.55 per sq. ft.

[12] The subject property, which has 14,884 sq. ft. of assessable building area, is assessed at \$1,390,000.

Position of the Parties**Complainant's Position:**

[13] The Complainant argued that the TASP of the subject's sale in June, 2012 should be used to set the 2014 assessment for the subject property. This sale was used by the Respondent in their analysis of the sale prices for the 2014 assessment (valuation date of July 1, 2013).

[14] The Respondent's TASP of the subject's sale is \$1,224,480.

[15] The Complainant referenced 2005 ABQB 512, rendered by Justice Acton, wherein the MGB failed to rely on the evidence of value provided by the recent sale of the property. Justice Acton quoted from an Ontario court decision which states:

"--- the price paid in a recent free sale of the subject property itself, ---, must be very powerful 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."

[16] CARB decision 72475P-2013 on the subject property was referenced by the Complainant in support of using the subject sale to set the assessment for the subject property. The Board in this decision accepted the subject's sale price and supported their decision, in part, by quoting from 2000 ABQB 594 wherein Justice Fraser said:

"To summarize, I am of the view that the Board was entitled in law to reduce the land assessment under review to market value as it did, notwithstanding the resulting value was not determined by the use of mass appraisal and notwithstanding that the revised assessment may not have been fair and equitable at the time having regard to other assessments in the County. The application of the County to have Board order MGB 172/199 quashed is therefore dismissed."

[17] In rebuttal, the Complainant re-capped the Respondent's four sale comparables and drew the Board's attention to the fact three comparables are single-tenant properties, two comparables are located in the same area as the subject, and two comparables are located on McCall Industrial Park.

[18] The Complainant argued that single tenant properties should not be used as comparables to the subject because the Respondent values multi-tenant property at a higher rate than single-tenant property.

[19] The Complainant asserted that the comparables in McCall Industrial are located in an inferior location: generally property values are higher in Greenview than in McCall and therefore are not reasonable comparables to the subject.

[20] The Complainant argued that the TASP of the subject's sale in June, 2012 is the best indication of the subject's market value as of July 1, 2013.

Respondent's Position:

[21] The Respondent provided four sale comparables from NE Calgary, three of which are single-unit/bay properties and one of which is a multi-unit/bay property. Two of the comparables are located in Greenview Industrial and two are located in McCall Industrial.

[22] The four comparables have an assessable building area range from 12,000 to 19,129 sq. ft., AYOC (actual year of construction) range from 1963 to 1980, site coverage (SC) range from 40.31 to 67.32%, finish range from 13 to 67% and number of units range from 2 to 4.

[23] The TASP's range from \$106.25 to \$138.00 per sq. ft. of building area versus the assessed rate of \$93.55 per sq. ft. of the subject.

[24] An assessment equity chart was provided of five properties in Greenview Industrial which have an assessed rate range from \$97.02 to \$138.26 per sq. ft. of building area and the Respondent asserted these comparables support the subject's assessed rate of \$93.55. The Respondent recognized that assessment equity is not at issue by the Complainant.

[25] The Respondent advised that the subject was given a 6% market adjustment in recognition of CARB decision 72475P-2013 and because of the subject's construction type, that being of steel frame and metal cladding.

[26] In summary, the Respondent referenced MGB order 181/00 in support of his argument that the sale price of a subject property is a good starting point and that the Board must give consideration to s.467 of the Act wherein the Board must not alter an assessment that is fair and equitable.

[27] The Respondent asserted the four sale comparables and five equity comparables support the subject assessment.

Board's Reasons for Decision:

[28] The Board finds the sale of the subject in June, 2012 to be a valid arms-length transaction. This sale was used by the Board to set the 2013 assessment of the subject and the Respondent used it in their analysis to determine the 2014 assessments of similar property.

[29] The Board notes that the sale took place one year prior to the valuation date of July 1, 2013 and understands from both parties that, apart from the change in market values, no other changes have taken place at the subject nor have any changes been made to the subject property subsequent to June, 2012.

[30] The Complainant accepts the TASP's of the sales used by the Respondent in their analysis and the Respondent did not refute the TASP of the subject sale.

[31] The Board notes the assessed rate of the subject falls below the range of both the TASP's and the assessed rates by 22% and 15% respectively. No explanation was provided other than it may be because the subject is not a typical steel column and beam and concrete block warehouse type structure; the subject is a rigid steel frame structure with metal cladding and a gable style roof as shown by the photos provided in evidence.

[32] The Board is cognizant of the requirement of s.467(3) of the Act, not to alter any assessment that is fair and equitable. In this case the Respondent's equity analysis and sales analysis show that the range of assessed rates and TASP's are higher than the assessed rate of the subject of \$93.55. The Board is not convinced that because the subject's assessed rate falls below the sales and equity ranges that the assessment is fair and equitable. A further analysis should be made to take into consideration the similarity/difference of characteristics of the subject property and the comparable properties.

[33] The Board notes that the TASP of the subject at \$82.27 per sq. ft. is 22% below the bottom of the range of TASP's and 29% below the bottom of the range of assessed rates. The Board finds this analysis persuasive that the sale of the subject should be given considerable weight. The Respondent used the subject's sale in their analysis in the valuation of industrial warehouses and granted a market adjustment to the subject assessment to recognize that the subject's sale shows the subject property has atypical characteristics.

[34] Based on the foregoing explanation, the Board's decision is to change the assessment to \$1,220,000.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF JULY 2014.

A handwritten signature in black ink, appearing to read "M. Chilibeck", is written over a horizontal line.

M. CHILIBECK

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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.*

CARB Identifier Codes

Decision No. 75617P-2014			Roll No. 034187500	
<u>Complaint Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Industrial	Multi Tenant	Sales Approach	Subject's Sale

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