

**COMPOSITE
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:

Dundeal Canada (GP) Inc. (as represented by Colliers International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***C. J. Griffin, PRESIDING OFFICER
S. Rourke, MEMBER
J. Pratt, MEMBER***

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER: 031018591

LOCATION ADDRESS: 3520 – 29 Street Avenue NE

HEARING NUMBER: 61368

ASSESSMENT: \$7,940,000.

This complaint was heard on 14 day of June, 2011 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:

- *M. Uhryn*

Appeared on behalf of the Respondent:

- *J. Lepine*

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

As with several cases heard by this same panel of the CARB earlier in the week, the Respondent brought forward a preliminary matter related to the Complainant's written submission (Exhibit C-1), which is essentially near identical to the submissions for the previous Hearings (#61329 & 61331 & 62902), submitted to the CARB which they maintain was improperly exchanged and not in accordance with the requirements of Alberta Regulation 310/2009 Sections 8(2) and 9(2). The Assessor notified the Complainant by email on May 6/11 that a portion of their submission was not legible. The Complainant responded by email on that same day explaining that he was away from the office but that he would call the next week to determine an alternative to provide a clear version. The evidence package was resubmitted May 16/11 but the Assessor advised that he considered the exchange to be too late and that he was disadvantaged by having to wait 10 days for the alternative package and that he would be raising the matter at the Hearing and asking that the illegible pages be deemed inadmissible by the CARB.

The CARB reviewed the pages in question and found that portions of same were somewhat legible in their original form. The CARB does not find that the original exchange was in contravention of Alberta Regulation 310/2009 Sections 8(2) or 9(2) and that the pages in question would be accepted as evidence for the Hearing but would only be given such weight as the CARB felt would be reasonable given the questionable legibility.

Property Description:

The subject property is reportedly a 64,897 Sq. Ft. multi-tenant industrial building that was originally built in 1998. The building sits on a 3.02 acre site, resulting in a 36.24% site coverage. The property features approximately 56% office finish.

Issues:

While a number of inter-related issues were outlined on the Assessment Review Board Complaint form, at the Hearing and in their submission the Complainant reduced these to:

- 1) application of the Income Approach to Value is a more accurate test of value for the subject property as opposed to the Direct Sale (Comparison) Approach as applied by the Assessor.

Complainant's Requested Value: \$6,480,000 (revised at the Hearing)

Complainant's Position

The Complainant contends that there were insufficient sales of similar properties to accurately apply the Direct Sale Approach, hence their application of the Income Approach. In order to support their applied market rental rate of \$7.00/Sq. Ft. the Complainant referred the CARB to Exhibit C-1 pages 16 & 17 (the pages of Exhibit C-1 were not numbered) which provides, on page 16, 5 examples of leases signed between April 2009 and May 2010 for spaces ranging in size from 2,777 Sq. Ft. to 6,621 Sq. Ft. and which indicate a mean rate of \$11.65/Sq. Ft. and a median rate of \$12/Sq. Ft. Page 17 of Exhibit C-1 shows a further number of lease examples

grouped into three distinct categories of 10,555 Sq. Ft. of leased space and less, 10,555 Sq. Ft. to 31,500 Sq. ft. and then 14,011 Sq. ft. to 41,491 Sq. Ft. The Complainant has utilized several of these lease examples in more than one of the aforementioned categories; however, be that as it may they indicate a median rental rate of \$9.65/Sq. Ft. for the first category, \$10/Sq. Ft. for the second category and \$7.18/Sq. Ft. for the third category. Additionally the Complainant submitted (Exhibit C-1 pg. 20) a copy of the rent roll from the subject property dated December 31, 2010 showing the building to be leased at an average rate of \$11.60/Sq. Ft. In support of their applied 5.75% vacancy rate, the Complainant submitted (Exhibit C-1 pgs. 22 – 25) a copy of a Colliers International prepared Quarter 3 Calgary Industrial Market Report which reports the vacancy rate for the northeast segment of the industrial market place as being 5.75% as at July 2010. Typical operating costs of \$3.29/Sq. Ft. (being the operating costs for one of the properties heard earlier in the week by the same CARB panel) were applied. In support of their applied 7.5% overall capitalization rate the Complainant submitted (Exhibit C-1 pg 28) a summary of 5 industrial sales with capitalization rates ranging from a low of 6.61% to a high of 7.6% with an indicated median of 7.48%. Having derived the required market based inputs, the Complainant completed the Income Approach, as shown on page 54 of Exhibit C-1, which shows a value of **\$20,330,000** which the Complainant maintains supports their requested assessed value of **\$6,480,000**.

Respondent's Position

In defence of the assessed value the Respondent submitted their Exhibit R-1. It is the Respondent's position that application of the Sales Approach has resulted in a fair and correct assessed value for the subject property. The Respondent provided 7 comparable sales (Exhibit R-1 pg 25) of industrial buildings ranging in size from approximately 46,240 Sq. Ft. to 167,560 Sq. Ft. with a mean selling price of \$128/Sq. Ft. which the Assessor maintains fully supports the current assessment \$122/Sq. Ft.

Board's Decision in Respect of Each Matter or Issue:

The CARB finds that:

- 1) There were sufficient sales to accurately apply the Direct Sales (Comparison) Approach to derive an estimate as to the assessed value of the subject property.

Board's Decision:

The assessment is **confirmed** at: **\$7,940,000**.

Reason(s) for Decision

The CARB is of the judgment that the evidence of the Complainant was so disjointed and contradictory that it did not meet ONUS. Examples are the comparable lease rates which, in their own evidence package suggest an indicated lease rate of \$9/Sq. Ft. as opposed to the requested \$7/Sq. Ft. The capitalization rates derived from their sales comparables were not derived in accordance with their own guidelines (Exhibit C-1 pg. 28) and an income approach that suggests a value indication of **\$20,330,022** should support their request for an assessed value of \$6,480,000. The CARB is very disappointed with the quality of the materials presented by the Complainant (a professional tax agent), the apparent lack of proof reading of same, the inconsistencies and contradictions found in numerous places in their submission and the

completely inaccurate income approach summary. It would behove the Complainant to put more care and thought into their presentations and submissions before the CARB in the future.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF June 2011.


C. J. Griffin
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
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.*