

**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(4).

between:

Assessment Advisory Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

H. Kim, PRESIDING OFFICER

D. Pollard, MEMBER

K. Usselman, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	119003705
LOCATION ADDRESS:	9615 48 St SE
HEARING NUMBER:	58655
ASSESSMENT:	\$6,650,000

This complaint was heard on the 18th day of June, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- Yuan Tao
- Troy Howell

Appeared on behalf of the Respondent:

- Ian McDermott

Property Description:

The subject is a single tenant industrial property consisting of three buildings:

- 1) 10,760 square feet constructed in 1994,
- 2) 16,460, square feet with a 14,810 sq. ft. footprint constructed in 2009, and
- 3) 2,720 square feet constructed in 1976.

The buildings are located on a 4.71 acre parcel in the South Foothills Industrial area. The parcel has 13.8% site coverage and is zoned Industrial General (I-G). The assessment is based on sales comparables.

Issues:

The Complainant identified two issues on the Complaint form:

1. The assessed value is not reflective of the property's market value.
 - a. Comparable property sales demonstrate lower market value is appropriate for the subject property or \$175/sq. ft.
 - b. The assessed value does not adequately reflect the condition and characteristics of the subject property.
2. The assessed value is inequitable with comparable property assessments.

Complainant's Requested Value: \$5,230,000 (revised to \$4,340,000 at the hearing)

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

At the hearing, the issues on the complaint form were determined to be three issues: Issue 1(a) whether comparable sales supported the per square foot rates used in the assessment of Buildings 1 and 2 and 1(b) whether the assessment reflected the condition and characteristics of Building 3. Issue 1(a) was argued on both sales and equity while 1(b) was argued on equity.

Issue 1: Valuation of Buildings 1 and 2 based on Comparable Sales

Complainant's position:

The Complainant stated that the assessment of the subject property had gone up to \$6,650,000 from \$6,005,000 in the previous year, in spite of the general decline in the market over that period of time.

The assessment was prepared using sales of similar sized buildings with Building 1 assessed at \$226.00/sq. ft. and Building 2 at \$214.95/sq. ft. The Complainant had presented a number of sales in previous hearings, but noted for the subject case the best comparable was a virtually identical property located two doors away from the subject, at 9415 48 St SE. It sold on Jun 19, 2009, practically on the valuation date, for \$3,900,000 or \$143/sq. ft. of rentable area. The Complainant presented details of the transaction from RealNet, and highlighted the following similarities (relative to Buildings 1 and 2):

	Subject	Comparable
Parcel size (acres):	4.71	4.70
Building area (sq. ft.)	10,760 + 16,460 = 27,220	6,400 + 20,860 = 27,260
AYOC	1994/2009	1990/2007
Site Coverage	13.80%	12.05%
Finish%	16%	22%

He submitted that the sale of the comparable indicates the market value per square foot of Buildings 1 and 2, blended, is \$143/sq. ft.

Respondent's position:

The Respondent agreed that the comparable did sell on the valuation date and that it was a valid sale. He stated that one sale does not make the market, and presented 8 sales, including the Complainant's comparable, in support of the assessment. They were located in various areas of the South East Industrial zone, and sold between October 2006 and June 2009. The buildings ranged from 12,689 to 32,338 sq. ft. and time adjusted sale prices per square foot were \$141 to \$230.

With respect to the Complainant's comparable, he stated that after conversations with the new owner and a site inspection in January 2010, he confirmed that the smaller building was in very poor condition, with major renovation required. He concluded that the entire value of the transaction was for the larger building. The Respondent argued that the sales support the assessment.

Complainant's rebuttal:

The Complainant disputed the Respondent's statement regarding the condition of the comparable. He had been the agent for the 2008 appeal of the comparable, which had subsequently been withdrawn, and was very familiar with the property. He did not have proof, because the Respondent's oral statements had not been previously disclosed. He had pictures from 2008 that showed the smaller building was fully utilized and not in bad condition, but did not think to bring them. He suggested that the poor condition of the smaller building when the Respondent inspected it was due to construction in progress, preparation for a new lease which commenced March 2010.

Decision and Reasons:

Section 8 of AR 310/2009, *Matters Relating to Assessment Complaints Regulation* (Regulation) sets out requirements related to disclosure of evidence:

8 (2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,
(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing,

...

(b) the respondent must, at least 14 days before the hearing date,
(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing,

...

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Section 9 states that the Board must not hear any evidence that has not been disclosed in accordance with section 8.

In the subject hearing, the Board was not made aware that the Respondent's information with respect to the condition of the comparable had not been disclosed until after the statements were made. Therefore, in fairness, the Complainant was permitted to rebut those statements. Due to the requirements of the Regulation, in considering the evidence, the Board did not consider the information regarding the condition of the comparable. Nevertheless, even if it had been considered, the Board would have relied on the RealNet details to conclude that the purchase price of the comparable was for the property as listed, without indication of unusually poor condition.

Accordingly, the Board finds that the market value of Buildings 1 and 3 is \$143/sq. ft.

Issue 2: Equity

Complainant's position:

The 2010 assessment of the comparable at 9415 48 St SE is \$3,790,000 compared to the subject at \$6,550,000 for a virtually identical property. The Complainant submits that this is inequitable and that the assessment of the subject should be reduced to \$143/sq. ft. for Buildings 1 and 2 to maintain equity between similar properties.

Respondent's position:

The Respondent stated that due to his site inspection showing the smaller building had no value, the assessment of the smaller building was reduced to a nominal \$10/sq. ft. and the larger building left at the value modelled. He argued that the subject property did not warrant an allowance for condition.

Decision and Reasons:

The Board had the same difficulty with lack of disclosure for Issue 2 as for Issue 1, and determined that the evidence with respect to condition should not have been heard and could not be considered. The Board determined that even if the condition of the smaller building had been considered, the RealNet details were more compelling. Further, given the Respondent's methodology for assessing multiple-building industrial properties as if separately titled and adding the values together, reducing the value of the smaller building to \$10 is not supportable. The Respondent's Assessment Summary Report lists the smaller building at 7,520 sq. ft. and site coverage at 12.1% therefore the land attributable to the smaller building is 1.42 acres. Reducing the smaller building to \$10/sq. ft. effectively assesses 1.42 acres of land in South Foothills at \$7,520 which is the opinion of the Board is completely unreasonable.

The assessment of the comparable prior to this adjustment was over \$5 million. The Respondent addressed the discrepancy between a valid sale on the valuation date and the modelled assessment value by applying an unsupportable rate to one of the buildings instead of reviewing the model and at the same time adjusting similar properties.

Therefore the Board finds that the subject assessment should be reduced to \$143/sq. ft. for Buildings 1 and 2 to maintain equity between similar properties.

Issue 3: Condition and Characteristics of Building 3Complainant's position:

The assessment was prepared using sales of similar sized buildings with Building 3 assessed at \$248.34/sq. ft. The Complainant presented photographs showing the building is a corrugated steel, unheated and un-insulated storage shed. He submitted an assessment detail sheet for a property at 2139 50 St SE that showed a 33% reduction recorded as "discount to building – no heat" and suggested that the subject building should also be receiving a 33% reduction.

Respondent's position:

The Respondent did not address this issue.

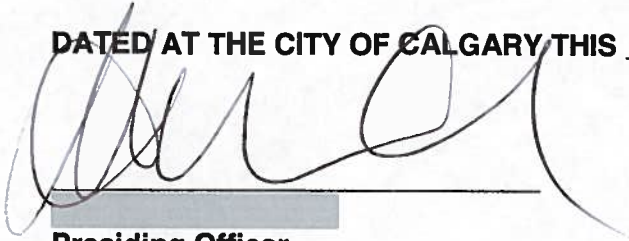
Decision and Reasons:

The photographs support the Complainant's position that Building 3 is an unheated and un-insulated shed. Other similar building receive a 33% reduction, accordingly a 33% reduction to the rate applied to that building is appropriate.

Board's Decision:

The complaint is allowed and the assessment is reduced to \$4,340,000 to reflect a rate of \$143 on Buildings 1 and 2 and a 33% reduction to the rate applied to Building 3.

DATED AT THE CITY OF CALGARY THIS 13th DAY OF July 2010.



Presiding Officer

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.*