



Complaint ID 0262 1652
Roll No. 30003110875

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: June 27, 2022

PRESIDING OFFICER: Bryan Horrocks
BOARD MEMBER: Dennis Dey
BOARD MEMBER: Rob Irwin

BETWEEN:

SAFETY FIRST PROJECTS 12 LTD.
As represented by Altus Group Limited

Complainant

-and-

REVENUE & ASSESSMENT SERVICES
City of Red Deer

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30003110875

MUNICIPAL ADDRESS: 1, 7659 Edgar Industrial Drive

ASSESSMENT AMOUNT: \$663,500

The complaint was heard by the Composite Assessment Review Board on June 27, 2022, via Video Conference.

Appeared on behalf of the Complainant: Brent Foden, Agent, Altus Group Limited

Appeared on behalf of the Respondent: Del Stebner, Assessor, City of Red Deer
Cale Green, Assessor, City of Red Deer

DECISION: The assessed value of the subject property is Changed to \$618,800

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”].

PRELIMINARY MATTERS

- [2] The Presiding Officer confirmed that no Board Member raised any conflicts of interest regarding the matters before them.
- [3] Neither party raised any objection to the panel hearing the complaint.
- [4] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.

PROPERTY DESCRIPTION AND BACKGROUND

- [5] The subject property is a 6,402 square foot Industrial Warehouse Condo unit located within a six-unit building located at 7659 Edgar Industrial Drive within the Edgar industrial Park. The year of construction was 12001 and the property is zoned I1 Industrial Business.
- [6] The following assessment details were disclosed to the Board:
- (a) The Income Approach to value was utilized to calculate the assessment based on the following subcomponents and valuation parameters.
 - i. 5,002 square feet as Industrial Condo/5- range, with a rental rate of \$9.00 per square foot, vacancy allowance of 14%, operating costs of \$4.50 per square foot and allowance for non-recoverables of 2.00%
 - ii. 1,400 square feet as Office Mezzanine /2-range with a rental rate of \$5.00 per square foot, vacancy allowance of 14%, operating costs of \$4.50 per square foot and allowance for non-recoverables of 2.00%
 - iii. A capitalization rate of 6.00%.
- [7] The subject property, Unit 1 along with the adjacent Unit 2 in the same six-unit building were sold together in September 2020 for \$1,159,583.

ISSUES

- [8] The Complainant identified “an assessment amount” as the matter of complaint under Section 4 of the Assessment Review Board Complaint Form. Specifically, the Complainant submitted the best indicator of value is the recent sale of the property.
- [9] The issue for the Board’s consideration:
- (a) Is the sale of the property the best indicator of market value?
 - (b) Is there better evidence than the sale price?

[10] The complainant's requested value was \$618,800.

POSITION OF THE PARTIES

[11] The Parties presented documentary and testimonial evidence and arguments in support of their respective positions which are summarized as follows.

Position of the Complainant

[12] The Complainant requested the assessment be changed on the basis that the subject property's 2021 assessment is in excess of market value noting that Units 1 and 2 of 7659 Edgar Industrial Dr. transacted on September 17, 2020 for a combined sale price of \$1,159,583.

[13] The Complainant requested that the subject property be valued on the basis of the September 17, 2020 sale. The requested assessment for the individual units is determined by allocating the sale price among the two units on the same basis as the individual assessment for each unit contributes to the total assessment for the two units combined as follows:

Complain ID	Civic Address	2022 Assessment	% of Combined Assessment	% Applied to sale Price	Requested Assessment (Rounded)
0262 1652	1, 7659 Edgar Industrial Dr.	\$663,500	53%	\$618,824	\$618,800
0262 1651	2, 7659 Edgar Industrial Dr	\$579,800	47%	\$540,759	\$540,700
	Totals	\$1,243,300	100%	\$1,159,583	\$1,159,500

[14] The Complainant submitted the subject sale is the most reliable indicator of value. It is the only sale in this condominium project in the past three-year period. The September 17, 2020 sale is confirmed by documentary evidence including a current certificate of title and transfer of Land document.

[15] The Complainant submitted the Court of Queen's Bench of Alberta in *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB 512 Honorable Madam Justice Action found "evidence of a recent sale falls squarely within the statutory definition of market value."

[16] Further, subsequent Composite Assessment Review Board (CARB) decisions have taken direction from the Acton decision and found the sale price of subject properties time adjusted to the effective date to be the best indicator of market value (*Spruceland Properties Inc. and City of Calgary* CARB 89241P-2015; *Gregg Properties Co. Ltd. v. Parkland County*; *STEP Energy Services Ltd. and County of Grande Prairie No.1*).

[17] The Complainant argues each separate condominium project will have different characteristics and will perform differently in the marketplace. The Respondent's analysis of sales data does not reflect the characteristics and performance of the subject property in the marketplace.

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- [18] The Complainant argued the current assessments for Unit 1 and Unit 2 together (\$1,243,300) produces an assessment to sales ratio (ASR) of 107.2 %. Adjusting the rental rate on the Industrial Condo area from \$9.00 to \$8.25 per square foot would result in total assessment for the two units of \$1,137,860 which in turn produces an ASR of 98.1%.
- [19] The Complainant submitted rent roll information for Units 1 and 2 for the period beginning December 1, 2020. The Monthly rent of \$7,785.94 is \$93,431.28 annually. The total area (including the mezzanine in Unit 1) is \$11,404 square feet which results in a total rental rate of \$8.19 per square foot. Using this rental rate along with a vacancy rate of 14%, an operating cost allowance of \$4.50, a non-recoverable allowance of 2.00% and a capitalization rate of 6.00% resulted in a valuation estimate of \$522,900 which is below the current assessed value of \$579,800.
- [20] The Complainant argued the Respondent's data and analysis of ASR's does not provide details that allow for testing the analysis including the size of the individual sale properties. Of note is that the subject properties (Unit 1 & 2) are assessed above sale price (107.22%) while the Respondent concludes that on average current assessment are below Sales Prices.
- [21] The Complainant also argued the Board is not bound by mass appraisal and the sale provided should be given the most weight as an indication of value as it occurred in an open market between a willing buyer and a willing seller.

Position of the Respondent

- [22] The Respondent submitted Unit 1 and Unit 2 7659 Edgar Industrial Drive are two legal entities and two separate rolls that should be addressed individually. They have different assessments due to differences in size.
- [23] The Respondent requested that the assessment not be changed as the current market lease rates of \$9.00 per square foot for warehouse Condo and \$5.00 per square foot for Office Mezzanine are demonstrated by evidence to be fair and equitable with other warehouses in the Edgar Industrial park. Further the Complainant has not provided any market lease information to argue these rates rate exceeds market supportable lease rates.
- [24] Further, the Respondent argued one sale does not make a market. A single sale does not reflect typical market conditions. To do so a single sale would have to be supplemented with further evidence.
- [25] The Respondent argued the *Matters Relating to Assessment and Taxation Regulation (MRAT)* expressly states an assessment must be prepared using mass appraisal and reflect typical market conditions for properties similar to the subject property. These legislative requirements allow for a fair and equitable distribution of taxes among property owners.
- [26] The Respondent also submitted that in *Altus Group Ltd v Edmonton Composite Assessment Review Board*, 2021 ABQB 322, the court confirmed that MRAT requires that typical market conditions be considered and stated (para 51):

Where the sale price of a subject property reflects typical market conditions then it may very well be the assessed value. Where a Review Board finds, however, that the sale price of a subject property does not reflect typical conditions, additional evidence will be required.

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- [27] The Respondent submits the inputs used in the income approach to valuation are market derived and reasonable. Sources of information include the assessment requests for information (ARFI's)) which includes data categories such as occupancy, rental amount, lease dates, types of lease and operating costs that are utilized in mass to establish typical inputs for the income approach.
- [28] The Respondent submits the issue is whether the subject property's sales price is the best evidence of market value or whether the evidence of other sales is more compelling.
- [29] The Respondent provided data on sales of Industrial Warehouse Condo within the Edgar Industrial park between July 1, 2018 and June 30, 2021, including the sales of Units 1 & 2 7659 Edgar Industrial Dr. This sales data demonstrated an average ASR of 92.7% and a median of 90.91% which indicates that on average the current assessments are below sales prices.
- [30] The Respondent also submitted data on rental rates agreed to in the Edgar Industrial Park over the period July 1, 2020 through to June 30, 2021 which demonstrate an average of \$9.40 per square foot and a median of \$9.12 per square foot. Further the Respondent argues the Complainant has provided no data or analysis to conclude the market lease rate of \$9.00 per square foot exceeds a market supportable lease rate.
- [31] The Respondent also provided data on the assessment per square foot of comparable Industrial Warehouse Condos located in Edgar Industrial Park of a similar age, location and same quality rating. The data which includes Unit 1 and Unit 2 7659 Edgar Industrial Dr produced an average assessment per square foot of \$119.96 and a median of \$115.94 per square foot. The Subject property had an assessment of \$132.65 per square foot which was calculated using the footprint area of 5,002 square feet only. By adding the 1, 402 square feet of mezz office area the Assessment per square foot calculation becomes \$103.64 for the total net leased area.
- [32] On whether the assessment exceeded market value, the Respondent argued the Complainant has provided no market sales information to conclude the assessment of the subject property as of July 1, 2021 exceeds the market value of the property.
- [33] The Respondent notes a market appraisal of Units 1 and 2 by Colliers International Realty Advisors completed in July 2020 indicates via the summary page the market value of \$1,257,000. As well the Respondent noted the website of Sundance Capital Corp noted the two subject properties held in a joint venture with the owner, has a purchase price of \$1,285,000.

BOARD FINDINGS and DECISION

- [34] Upon a review of all documentary submissions, testimony and arguments and the legislative authorities noted in Appendix B, the Board found the weight of evidence to support the change of assessment to \$618,800.
- [35] The Board finds the sale price subject property is the best indicator of value for the following reasons:
- (a) The Board agrees with the Court of Queen's Bench decision states "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."
 - (b) The Board is persuaded that each separate condominium unit will have different characteristics and will perform differently in the marketplace.

- (c) The Board is persuaded sales in the same Condo complex would be most reflective of market typical conditions and market value.
- (d) The Board is not persuaded the municipality provided sales data to demonstrate the sale price was unusually low and therefore did not reflect typical market conditions.
- (e) The Board acknowledges the sale of the subject property is the only sale in the condominium project in the past three years. Notwithstanding there being no additional sales price evidence supporting the sales price of the subject property, the Board accepts the sale price as market typical.
- (f) The Board gave little weight to the third-party information of the Colliers International market appraisal of the subject properties (Unit 1 & 2) as the appraisal document was not in evidence. The Complainant and the Board had no opportunity to inquire on the critical assumptions and limitations impacting the appraised value.
- (g) The Board gave little weight to the third-party information gained from the Sundance Capital website as there was no opportunity to consider the details leading to the estimate of value.

DECISION SUMMARY

[36] The Board finds that the original assessed value is CHANGED to \$618,800

Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 26th day of July, 2022 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



B. Horrocks
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX A

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials provided by Clerk (74 pages)
2. C.1	Complainant Submission – Disclosure (250 pages)
3. C.2	Complainant Submission Rebuttal (173 pages)
4. R.1	Respondent Submission – Disclosure (54 pages)
5. R.2	Respondent Submission – Legal Brief (66 pages)
6. R.3	2018 ABQB 501 (27 pages)

APPENDIX B**LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD****Municipal Government Act, R.S.A. 2000, Chapter M-26 (the MGA)**

s. 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.

s. 289(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) The valuation and other standards set out in the regulations for the property... 2019 ABCGYARB 2140671 (CanLII)

s. 460.1(2) Subject to section 460(14), a composite assessment review board has jurisdiction to hear complaints about

(a) any matter referred to in section 460(5) that is shown on

(i) an assessment notice for property other than property described in subsection (1)(a)

s. 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required

...

(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.

Matters Relating to Assessment and Taxation Regulation, 2018 A.R. 203/2017

s. 1(g) “mass appraisal” means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing.

s. 5 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.

s. 6 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

s. 9(1) When an assessor is preparing an assessment for a parcel of land and improvements to it, the valuation standard for the land and improvements is market value.