

Central Alberta

Regional Assessment Review Board

CARB 0262-960/2017
Complaint ID 960
Roll No. 30003110345

COMPOSITE ASSESSMENT REVIEW BOARD **AMENDED** DECISION
HEARING DATE: August 15, 2017

PRESIDING OFFICER: B. Hisey
BOARD MEMBER: V. Higham
BOARD MEMBER: A. Knight

BETWEEN:

NIBLICK EQUITIES INC.

Complainant

-and-

CITY OF RED DEER
Revenue & Assessment Services

Respondent

This decision pertains to a property assessment 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: 30003110345
MUNICIPAL ADDRESS: 7980 Edgar Industrial Dr.
ASSESSMENT AMOUNT: \$3,606,200¹

The complaint was heard by the Composite Assessment Review Board on the 15th day of August 2017, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant:
John Smiley - Altus Group

Appeared on behalf of the Respondent:
Jason Miller – Property Assessor
Maureen Cleary – Senior Assessor/Analyst

DECISION: The assessed value of the subject property is confirmed at \$3,606,200.

¹ This decision has been amended by replacing the words "ASSESSMENT AMOUNT: \$1,842,300" with "ASSESSMENT AMOUNT: \$3,606,200".

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 456 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and City of Red Deer Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw*.

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject is a non-residential warehouse property located at 7980 Edgar Industrial Drive in the Edgar Industrial Subdivision, Red Deer, Alberta. The 3.01 acre parcel has 20,280 square feet (sf) of total rentable area.
- [3] The assessment has been calculated using the income approach at \$3,235,065 with an additional \$371,136 for costed items; the total assessment for the subject property is \$3,606,200 (rounded).
- [4] Niblick Equities Inc. submitted a complaint to the Regional Assessment Review Board and checked box #3 on the complaint form, indicating that the complaint regarded an assessment amount.

PRELIMINARY MATTERS

- [5] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [6] Neither party raised any objection to the panel hearing the complaint.
- [7] The Parties agreed that the subject of vacancy allowance would be carried forward from the lead file, Roll number 30003210155 (8156 Edgar Industrial Close) heard on August 14th, 2017 to:

30003010170	6739 67 Av.
30003011650	7023 Johnstone Dr.
30003110345	7980 Edgar Industrial Dr.
30003110355	8080 Edgar Industrial Cr.
30003110410	8076 Edgar Industrial Cr
30003110430	8005 Edgar Industrial Av.
30003110435	8077 Edgar Industrial Cr.
30003110510	7959 Edgar Industrial Dr.
30003110615	7920 Edgar Industrial Wy
30003111025	7630 Edgar Industrial Dr.
30003111165	7730 Edgar Industrial Court
30008800100	101 Burnt Park Dr.

[8] The Board confirmed the parties submissions and entered the following Exhibits into the record:

- A.1 Hearing Materials provided by Clerk (87 pages)
- C.1 Complainant Submission (109 pages)
- C.2 Complainant Document – A Review of Red Deer’s Current Industrial market Vacancy Levels (317 pages)
- C.3 Complainant Document – Red Deer Industrial Vacancy Rebuttal Submission (352 pages)
- R.1 Respondent Submission (14 pages)
- R.2 Respondent Document - Industrial Vacancy Allowance (271 pages)

ISSUE

[9] The Board considered the Parties’ positions and determined the following question is to be addressed within this decision:

- a) Does a 20% vacancy rate proposed by the Complainant, result in a correct estimate of market value for the subject property?

POSITION OF THE COMPLAINANT

[10] The Complainant stated the 8% vacancy rate utilized by the Respondent in the development of capitalized income values for industrial properties in Red Deer is incorrect. The Complainant provided evidence to argue that an 8% vacancy rate materially understates the expected vacancy for investors respecting industrial property, and that a more appropriate rate would be 20%.

[11] The Complainant presented an overview of the subject property as provided to the Board in the disclosure documents. The current assessment methodology was reviewed with the single issue of “vacancy allowance” identified as the sole reason for appeal.

[12] An “*Industrial Vacancy Allowance*” document (*A Review of Red Deer’s Current Industrial Market Vacancy Levels*) prepared by the Complainant was introduced as C.2 containing evidence regarding economic indicators for current industrial market vacancy levels. This document suggested supporting industries for oil and gas have higher vacancy rates and unemployment than typical provincial standards. It also noted that unemployment in Alberta (specifically for July, 2016) was at an all-time 20 year high at 10%.

[13] Included in the disclosure package were government and local publications that established a correlation between unemployment, crude oil prices (\$104 down to \$37) and the industrial service industry vacancy rates. Information was presented that suggested the economic downturn was responsible for an unemployment rate that quadruple within a 24 month period, again primarily targeting oil and gas participants.

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- [14] A thorough description of “vacancy rate” and “vacancy allowance” was provided by the Complainant. Included in this discussion was the effect this factor has on potential income, through tenant turnover, non-payment of rents and future losses affecting business viability.
- [15] To further explain the factors that affect vacancy, the Complainant gave the Board several definitions from various cities used to describe vacancy for those municipalities.
- [16] The Complainant proposed that there were strong links between vacancy and unemployment, suggesting that the percentages for these items follow each other.
- [17] The Complainant reviewed an article by *Joseph S. Rabianski*, “*Vacancy in Market Analysis and Valuation*”, which implied that the concept of vacancy may not be fully appreciated in real estate literature. It was suggested that incorrect vacancy levels were determined when leased vacant areas were not included in these calculations. For a market analysis on an income property, this author’s perspective was that these spaces must be identified as vacant.
- [18] A Red Deer industrial market survey by *Soderquist Appraisals Ltd.* was reviewed in detail. The summarized vacancy rates for particular industrial subdivisions within Red Deer were described as follows:
- I. Edgar Industrial – 20.4%
 - II. Golden West – 3.7%
 - III. Johnstone Crossing – 7.7%
 - IV. Riverside Heavy Industrial – 11.2%
- [19] The Complainant specifically identified a large industrial vacancy (Finning) from that report which was said to be indicative of the Red Deer market. Due to the economic downturn this large industrial business closed one of its warehouse locations in 2016.
- [20] Based on a review of the *Soderquist Report*, the Complainant determined that an appropriate vacancy of 20% should be used for determining the potential income for industrial properties in Red Deer.
- [21] The Complainant stated that despite repeated requests to the City for vacancy rate data, he was unable to obtain this material. Therefore third party information is the most reliable data available for the appeal.
- [22] On questioning by the Respondent with regards to “actual vacancy” references, in the “*Vacancy in Market Analysis and Valuation*” report by *Joseph S. Rabianski* rather than “vacancy allowance”, it was suggested that with an income approach, typical values must be utilized. The Complainant stated however that a knowledgeable buyer would look to the vacancy in an area, as an indication of what could be monetarily expected for an income property.
- [23] It was also noted by the Complainant during questioning, that third party information was not relied upon in its entirety and that the evidence had been compiled and reviewed by various members of the Altus Group.
- [24] To summarize the Complainant argued that, “vacancy should make sense”, from the perspective of a potential investor. He further suggested that the Respondent had not

established how a typical 8% vacancy had been determined, and there was no comparable inventory made available to the Altus Group to review or challenge. Additionally the Complainant suggested that any building available for sublease, should be included in vacancy rate calculations.

- [25] The Complainant provided an alternate 14.5% vacancy rate request for the Board's consideration, based on data that represents just under 50% of total industrial property within the municipality.
- [26] In closing the Complainant requested a 20% vacancy rate be used to value the subject property which would reduce the current assessment to \$3,060,900.

POSITION OF THE RESPONDENT

- [27] The Respondent described legislative requirements for valuation of the subject property, and reviewed the assessment details.
- [28] An evaluation of vacancy definitions was given detailing the difference between a "vacancy rate" as being a snapshot in time, verses a "vacancy allowance" required for typical information legislated when applying the income approach to value.
- [29] The Respondent provided local assessment records, and provincial industrial market studies to substantiate the applied 8% vacancy allowance. This same data indicated that a 20% vacancy would be excessive (if used to calculated value) when compared to recent industrial sales. If these transactions were time adjusted to the current valuation date, assessment to sales ratios would range from 65 to 96% with an average and median of 80%, well outside the legislated requirements.
- [30] Further challenging the data used by the Complainant to ascertain vacancy rates, the Respondent provided information including leases, sales documents, and request for information forms to refute the statistics provided by the *Soderquist Survey*. Removing the properties challenged by the Respondent from the survey, validates the 8% vacancy allowance applied in the subject assessment.
- [31] Additionally, the Respondent noted that properties within the *Soderquist Survey* included parcels from the County of Red Deer. When these lands are removed from the study the vacancy rate drops to 6.65% or 6% within the City (lower than the allowance provided in the current assessment calculations).
- [32] The Respondent challenged the Complainant's use of third party information, noting concerns that minimal research and due-diligence had been undertaken with regards to information provided to the Board.
- [33] The Respondent also refuted the article by *Joseph S. Rabianski*, as his paper discussed actual vacancy whereas the legislative requirement directs the use of a typical vacancy allowance.
- [34] The Respondent confirmed the Complainant had provided a thorough review of vacancy trends and rates in Alberta, however this was general information that could not be relied upon specifically for the City of Red Deer.

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- [35] On questioning the Respondent stated there was no mathematical calculation regarding the typical vacancy allowance, but that it was a reconciliation process involving owner information forms, interviews and municipal documentation.
- [36] In summary, the Respondent suggested the accuracy of the Complainant's evidence was lacking, as was the methodology of applying "point in time actual vacancy rates" within a normalized income pro-forma.
- [37] The Respondent further argued that the Complainant had not provided any evidence to support the requested 20% vacancy rate, and that this factor would not be consistent with actual sales.
- [38] The Respondent requested that the Board confirm the applied 8% vacancy allowance and the current subject property assessment.

REBUTTAL

- [39] The Complainant provided information to refute the "single point in time" referenced by the Respondent. Using the Finning Industrial site as an example, the Respondent reported it was occupied on July 1, 2016 while the Complainant suggested the south building was vacant at that time. This alone would increase the reported vacancy rate to 12%.
- [40] It was also suggested by the Complainant that market information is preferable evidence to the marketing materials provided by the Respondent.

BOARD FINDINGS and DECISION

- [41] The Board finds 8% for typical vacancy allowance as determined by the Respondent to be appropriate. The application of the requested 20% vacancy to recent industrial transactions yields values substantially below arms-length purchase prices. This was shown by the Respondent through two charts for assessment to sale ratio, on actual sale and time adjusted purchase of improved industrial transactions.
- [42] The Board finds that the methodology of mixing actual vacancy rates with third party adjustment factors does not meet the legislative requirements as described in *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004, section 2. This segment provides that assessments based on market value must reflect typical market conditions.
- [43] The typical vacancy used by the Respondent is supported by information from the *City of Red Deer Vacancy Study* from the 2016 Request for Information Forms utilizing the Edgar, Golden West and Riverside Heavy Industrial areas. This specific report indicated a vacancy of 8.45%.
- [44] With respect to the Complainant's argument that a building available for sublease should be included in vacancy rate calculations, the Board recognizes that in the determination of valuation based on the income approach for assessment purposes, it is necessary to include active leases which produce income.

- [45] The Board acknowledges the overall economic forecasts to be persuasive, however the impacts to vacancy of industrial properties in Red Deer were not conclusive.
- [46] Both parties analyzed the *Industrial Market Survey / Red Deer 2015*, authored by *Soderquist Appraisals Ltd.* Verification of several factors such as occupancy status, availability, size, listing date and contractual lease in-place, as of the valuation date was problematic. This third party information could not be confirmed therefore less weight was given to data from that document.
- [47] Section 467(3) of the *Municipal Government Act*, RSA 2000, c M-26 states that an assessment review board must not alter any assessment that is fair and equitable. Proving the incorrectness of an assessment is the responsibility of the individual alleging it. The Board was not presented with sufficiently compelling evidence on which a change to the assessment could be based.


DECISION SUMMARY

- [48] The Board finds that the Respondent values are confirmed.
- [49] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 12th day of September, 2017 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.
- [50] **AMENDED** pursuant to s. 471(1) & (2) of the MGA which states:

“471(1) If there has been substantial compliance with this Part, the decision of an assessment review board is not invalid because of a defect in form, a technical irregularity or informality.

(2) An assessment review board may correct any error or omission in its decision.”

This decision has been amended and issued by the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 18th day of September, 2017 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.



Brenda Hisey
Presiding Officer

This decision can be appealed to the Court of Queen's Bench. 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 within 60 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials provided by Clerk
2. C.1	Complainant Submission
3. C.2	Complainant Document – A Review of Red Deer’s Current Industrial market Vacancy Levels
4. C.3	Complainant Document – Red Deer Industrial Vacancy
5. R.1	Respondent Submission
6. R.2	Respondent Industrial Vacancy Allowance Disclosure