

**CARB 0262 1089 2018**  
Complaint IDs: 0262 1089 2018  
Roll No. 30008800100

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COMPOSITE ASSESSMENT REVIEW BOARD DECISION  
HEARING DATES: JULY 10 AND 11, 2018

PRESIDING OFFICER: J. Dawson  
BOARD MEMBER: R. Schnell  
BOARD MEMBER: K. Waters

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BETWEEN:

BRANDT TRACTOR PROPERTIES LTD.  
(As Represented By Altus Group Limited)

Complainant

-and-

THE 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: 30008800100  
CIVIC ADDRESS: 101 Burnt Park Drive  
LEGAL ADDRESS: LOT 1, BLOCK 1, PLAN 0524232  
ASSESSMENT AMOUNT: \$6,900,100

The complaint was heard by the Composite Assessment Review Board on July 10 and 11, 2018, at The City of Red Deer on the second floor of City Hall, in the province of Alberta.

Appeared on behalf of the Complainant:  
Andrew Izard

Appeared on behalf of the Respondent:  
Jason Miller  
Maureen Cleary

**DECISION:** The assessed value of the subject property is changed to \$6,475,700.

## **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”].

## **PROPERTY DESCRIPTION AND BACKGROUND**

- [2] The complaint concerns the assessment of the owner-occupied sales and service centre for Brandt Tractor in Red Deer, Alberta. The business on site is comprised of two separately assessed properties. It is the northern 6.10 acre portion with the 32,248 square foot improvement that is under complaint. There is a 15,745 square foot Access Right of Way located along the entirety of the north property line.

## **PRELIMINARY MATTERS**

- [3] The Board is a composite assessment review board which derives its authority from the MGA section 460.1(2).
- [4] The Board's composition is as required in the MGA section 454.21(2) with a three-person panel consisting of two appointed members of the Central Alberta Regional Assessment Review Board and the presiding officer which is a provincial member appointed by the Minister in accordance with the regulations.
- [5] Board member K. Waters identified he does not have a bias but did have a working relationship with the Respondent J. Miller some twenty years ago. The presiding officer confirms that no board member has a conflict of interest with regard to matters before them.
- [6] Neither party raised any objection to the panel hearing the complaint and appreciated the disclosure from K. Waters.
- [7] The Board's decision relates to matters within its delegated authority in section 467 of the MGA.
- [8] The Respondent requested that certain materials regarding a new issue and argument within rebuttal of the Complainant be redacted.
- [9] The Board determined that it would place the appropriate weight on the evidence and address the concern within this decision.

## **ISSUES**

- [10] The Board considered the parties' positions and determined the following items are to be addressed within this decision:
- A) The Complainant's request concerning Market Value as calculated using the income approach for the following items;
    - A.i) Rental Rate, and
    - A.ii) Capitalization Rate.

- B) The Complainant's request concerning equity based on the assessments of comparable properties.
- C) Whether the Board has the jurisdiction to deal with the Complainant's revised assessment request pertaining to an Access Right of Way; and
- D) The Value attributed to the Access Right of Way.

[11] The Complainant stated that based on the issues, the correct assessment is \$5,102,650 and an alternative assessment request, if equity is applied, is \$5,425,300.

## **POSITION OF THE PARTIES**

### **Position of the Complainant**

#### *Evidence in Chief*

[12] The Complainant's position is that the Market Value of the subject is incorrect with two components of the income approach calculation requiring adjustment:

- I. the assessed rental rate of \$15.00 per square foot requires a change to \$11.50 per square foot; and
- II. the assessed capitalization rate requires a change from 6.75% to 7.25%.

[13] The Complainant provided four sales of similar properties to calculate a requested assessment of \$5,102,650. The four comparable properties are:

- I. 158 Queens Drive: with a sale occurring 8 days prior to the valuation date of July 1, 2017. The land area is similar at 203,425 square feet versus the subject at 214,987 square feet and the building footprint and building area is 32,920 square feet compared to the subject at 32,248 square feet. The sale price was \$4,500,000 or \$136.00 per square foot after adjusting for cranes and craneways (\$22,754);
- II. 8051 Edgar Industrial Drive: with a *post facto* sales date of November 18, 2017. The 308,404 square foot property sold for \$4,900,000. After adjusting for excess land (\$798,300) and cranes and craneways (\$213,421) the 46,261 square foot building footprint (with 52,698 square feet of building area) derived an adjusted rate of \$73.78 per square foot;
- III. 8027 Edgar Industrial Drive: with a sales date of June 12, 2016. The 108,253 square foot property sold for \$3,400,000. After adjusting for excess land (\$1,154,500) and cranes and craneways (\$119,694) the 16,238 square foot building footprint (with 18,538 square feet of building area) derived an adjusted rate of \$114.67 per square foot; and
- IV. 6870 Edgar Industrial Drive: with a *post facto* sales date of September 20, 2017. The 96,703 square foot property sold for \$3,100,000. After adjusting for cranes and craneways (\$156,864) the 13,924 square foot building footprint (with 17,502 square feet of building area) derived an adjusted rate of \$168.16 per square foot.

- [14] The Complainant believes that the first sale is the best comparable; it is closest to the valuation date, in the vicinity of the subject property and is nearly the same footprint and building area as the subject property. The Complainant stated that, as its best comparable it used the assessed rental rate of \$11.50 per square foot to arrive at its requested \$11.50 per square foot rental rate request.
- [15] The Complainant reviewed the sales comparable at 158 Queens Drive to show, using the assessed net operating income, derived a capitalization rate of 7.20%, which the Complainant indicated supported its 7.25% capitalization rate request.
- [16] The Complainant provided five assessments of similar properties to calculate a requested alternative assessment based on equity of \$5,425,300. The five comparable properties are:
- I. 158 Queens Drive. The land area is similar at 203,425 square feet versus the subject at 214,987 square feet and the building footprint and building area is 32,920 square feet compared to the subject at 32,248 square feet. The assessment value is \$4,776,100 or \$145.00 per square foot;
  - II. 94 Burnt Park Drive. The land area is 176,418 square feet with a building footprint and building area of 35,000 square feet. The assessment value is \$4,676,000 or \$134.00 per square foot;
  - III. 84 Burnt Park Drive. The land area is 117,066 square feet with a building footprint of 17,560 square feet (with 21,660 square feet of building area). The assessment value is \$2,834,400 or \$131.00 per square foot;
  - IV. 7450 79 Street. The land area is 106,667 square feet with a building footprint and building area of 16,000 square feet. The assessment value is \$2,321,300 or \$145.00 per square foot; and
  - V. 6739 67 Avenue with 6736 Golden West Avenue. The total land area is 174,240 square feet with a building footprint of 30,560 square feet (with 32,520 square feet of building area). The combined assessment value is \$4,701,200 or \$145.00 per square foot.
- [17] The Complainant believes that the first equity comparable is the best comparable because it is in the vicinity of the subject property and is nearly the same footprint and building area as the subject property.

#### *Rebuttal Evidence*

- [18] In rebuttal, the Complainant explained that it excluded a comparable from its analysis due to a confidential agreement it has with the Respondent, which information regarding that comparable was provided on a “*without prejudice*” basis.
- [19] The Complainant also disputed a claim the Respondent made about the subject property being on an arterial roadway, showing a City of Red Deer traffic map wherein the subject property is located on a collector road. Furthermore, the Complainant demonstrated the vast distance the subject property is located from the QE II highway and designated arterial roadways.

[20] The Complainant reviewed the equity comparable properties provided by the Respondent and offered the following comments:

- I. 7610 Edgar Industrial Court. The Complainant argued that this property is subject to an agreement with the Respondent and the information it has was provided on a “*without prejudice*” basis.
- II. 7630 Edgar Industrial Court. The Complainant explained that this property is okay as a comparable with the subject property.
- III. 8014 Edgar Industrial Crescent. The Complainant presented that the property’s excess land calculation does not calculate to the typical 15%, so it investigated and found that a “public road” is registered on site with the adjacent property to allow access for both. The Complainant argued that the subject property likewise has a “public road” on title and it has not been afforded the equitable treatment and the Respondent failed to apply the legal, and legislative requirements pertaining to assessable and non-assessable property with equal force within the municipality.
- IV. The Complainant commented that; 83 Queens Drive, 129 Queens Drive, and 96 Quinn Avenue are okay as comparable properties with the subject property and excess land has been calculated properly.

[21] The Complainant argued that based on the “public road” contained within the subject property, there needs to be a negative adjustment made of \$347,041.

[22] The Complainant reviewed the nine sale comparable properties provided by the Respondent, stating that the Respondent has included sales, which are knowingly not reflective of market value, as defined in section 1(1)(n) of the MGA, and that they fail to meet definitions found within the context of Ministerial Order MAG: 02/17 or definitions provided within the International Association of Assessing Officers (IAAO) Standard on Verification and Adjustment of Sales (2010), and IAAO Standard on Ratio Studies (2013). The Complainant’s comments of the nine comparable properties are:

- I. 6870 Edgar Industrial Drive. The identical sale the Complainant provided in its original disclosure. It has a calculated capitalization rate of 7.23%;
- II. 83 Queens Drive with a sales date of January 11, 2016. The 2.69 acre property sold for \$4,100,000. After adjusting for excess land (\$221,200) and cost items (\$140,900) the 14,075 square foot building footprint (with 16,630 square feet of building area) derived an adjusted rate of \$243.90 per square foot and a capitalization rate of 6.14%. However, the Complainant argued that the parties involved in the sale are related (as seen from land title searches) and do not meet the definition of an arm’s length fair market value sale;
- III. 7754 47 Avenue Close has a *post facto* sale date on September 16, 2017. The 3.93 acre site sold for \$4,100,000. After adjusting for cost items (\$11,200) the 18,400 square foot building footprint with an identical building area derived an adjusted rate of \$222.22 per square foot and a capitalization rate of 6.19%. However, the Complainant argued that sale is

in a heavy industrial park with a different land use designation than the subject property and there is no adjustment made for the 10.7% site coverage;

- IV. 30 Burnt Bluff Street with a sales date of January 4, 2016. The 7.81 acre property sold for \$10,100,000. After adjusting for excess land (\$864,900) the 32,834 square foot building footprint (with 40,435 square feet of building area) derived an adjusted rate of \$258.38 per square foot and a capitalization rate of 5.93%. However, the Complainant argued that there is missed adjustments for crane and craneways. Additionally, the sale involved a lease in place at a rate higher than typical market rent;
- V. 77 Queensgate Crescent with a sales date of November 3, 2014. The 7.93 acre property sold for \$14,000,000. After adjusting for excess land (\$1,207,300) and cost items (\$501,600) the 32,000 square foot building footprint (with 43,396 square feet of building area) derived an adjusted rate of \$378.72 per square foot and a capitalization rate of 5.05%. However, the Complainant argued that the parties were involved in a lease back arrangement and there hasn't been a proper adjustment for time;
- VI. 6 Burnt Lake Crescent is a dated sale date of July 18, 2012. The 4.99 acre site sold for \$7,197,700. The sale occurred in a different municipality and has not been adjusted. The 21,600 square foot building footprint with an identical building area derived a rate of \$333.23 per square foot. However, the Complainant argued that it is a 5-year-old sale with a lease in place from 2007 with an 8% rate of return. Additionally, there is no adjustment made for the 9.9% site coverage;
- VII. 48 Belich Crescent has a slightly *post facto* sale date on July 28, 2017. The 3.01 acre site sold for \$3,175,000. The sale occurred in a different municipality and has not been adjusted. The 15,000 square foot footprint (with 18,000 square feet of building area) derived a rate of \$211.67 per square foot. However, the Complainant argued that sale involves a tenant purchasing from a landlord outside of typical market exposure. Additionally, the sale involved excess land with 11.4% site coverage;
- VIII. 225 Burnt Ridge Road has sale date of March 27, 2015. The 9.04 acre site sold for \$5,800,000. The sale occurred in a different municipality and has not been adjusted. The 13,760 square foot footprint (with 16,260 square feet of building area) derived a rate of \$421.51 per square foot. However, the Complainant argued that sale involves a significant amount of excess land with 3.5% site coverage. Subsequent to the sale the purchaser subdivided and sold the excess land for \$330,000 per acre. Additionally, the property involved crane and craneways. The Complainant also asserts the building size is misrepresented; and
- IX. 100 298 Burnt Park Way with a sales date of June 8, 2015. The 9.04 acre property sold for \$13,900,000. The sale occurred in a different municipality and has not been adjusted. The 64,800 square foot building footprint (with 67,800 square feet of building area) derived a rate of \$214.51 per square foot. The Complainant did not comment on this sale.

- [23] The Complainant asserted that the Respondent is including sales that should have been invalidated, and as such is including irrelevant information for consideration before this Board, specifically, the Respondent has included sales that do not meet the basis of market value definition, by including; a.) related party transactions, b.) leaseback transactions, c.) transactions with no possible exposure to the open market, and d.) transactions involving the tenant as purchaser from the landlord, and then entering into a leaseback between related parties affiliated with the tenant.
- [24] The Complainant further argued that the Respondent has also included transactions without making adjustments for; a.) assumed long-term lease transactions, b.) time, on a transaction dating back to 2012, or inconsistent time adjustments, c.) excess land where the site coverage is materially below the typical 15%, and d.) inclusion of sales with different land use designation without reviewing for comparability.
- [25] The Complainant closed its presentation with the position that, after correcting for the missed "public road", the correct assessment is \$4,755,600 and as an alternative request based on equity \$5,078,250.

### **Position of the Respondent**

- [26] The Respondent reviewed the subject property, explaining that it is a heavy equipment dealership and service center. The facility was custom built in 2007 as a high exposure dealership with the front half being customized with a reception area, showroom, sales and administrative offices, and parts storage and distribution area. The rear portion has a heavy-duty warehouse with 32' clear height with crane systems, reinforced and sloped flooring, and numerous overhead doors.
- [27] The Respondent explained that the subject property is designed for the owner with very high ceilings to display and service the heavy equipment. The ceiling height, the highway exposure and front-end finish have all been considered in the calculation of the assessed rental rate and capitalization rate. The Respondent, by using its comparable properties has taken into consideration the location with exposure, the height required for the tenant and the level of finish for the dealership component.
- [28] The Respondent also indicated that the equity and sales comparable properties selected by the Complainant do not account for customization, highway exposure, building height and level of finish that the subject property has and therefore are not comparable.
- [29] The Complainant requested assessment information for 7610 Edgar Industrial Court but failed to include it within its comparable property list. This property has the same exposure, similar access, a similar use, and is assessed with parameters similar to the subject property.
- [30] The Respondent provided six comparable properties to show the equitable treatment the subject property has been afforded:
- I. 7610 Edgar Industrial Court. It has been assessed with the same tenancy code, at the same \$15.00 per square foot rental rate, and was built in 2007 (the same year as the subject), it faces the QE II (directly across the highway), with similar access and has a building height of 22';

- II. 7690 Edgar Industrial Court has the same tenancy code, the same applied rental rate, a building height of 26', is a heavy truck dealership, and has highway exposure;
- III. 8014 Edgar Industrial Crescent has been coded with the same tenancy code, and the same \$15.00 per square foot rental rate, built in 2000 with a 28' building height and has highway exposure;
- IV. 83 Queens Drive is a heavy equipment dealership (like the subject property), has the same applied capitalization rate with a slightly higher applied rental rate at \$16.00 per square foot. The building height is 27', has highway exposure, and was built in 2014;
- V. 129 Queens Drive has the same applied capitalization rate, rental rate and tenancy code as the subject property. It has 32' to 34' building height, with highway exposure that was built in 2014; and
- VI. 96 Quinn Avenue is assessed with the same assessment parameters of 6.75% capitalization rate, \$15.00 rental rate and tenancy code. The building height is 30', was built in 2015 and is a heavy equipment dealership like the subject property.

[31] The Respondent argued that the six equity comparable properties show that the subject property is assessed fairly with five sharing the same highway exposure, four with very similar building heights and two the same use as heavy equipment dealerships.

[32] The Respondent provided nine sale comparable properties that are located in The City of Red Deer and neighbouring Red Deer County. Time and other adjustments are applied to the five sales within the City of Red Deer:

- I. 6870 Edgar Industrial Drive. Is a similar heavy equipment dealership on 2.22 acres of land which was built in 1998 with an addition in 2013. The addition has similar building height at 30' and the overall building footprint of 13,924 square feet (building area of 17,502 square feet). There is cost items adjustment of \$156,900. The sale occurred in September 2017 for \$3,100,000 with an adjusted value of \$211.37 per square foot and a capitalization rate of 7.23%;
- II. 83 Queens Drive sale occurred on January 11, 2016. The 2.69 acre property sold for \$4,100,000. After adjusting for excess land (\$221,200) and cost items (\$140,900) the 14,075 square foot building footprint (with 16,630 square feet of building area) derived an adjusted rate of \$243.90 per square foot and a capitalization rate of 6.14%;
- III. 7754 47 Avenue Close sold on September 16, 2017. The 3.93 acre site has a sale price of \$4,100,000. After adjusting for cost items (\$11,200) the 18,400 square foot building footprint with an identical building area derived an adjusted rate of \$222.22 per square foot and a capitalization rate of 6.19%;

- IV. 30 Burnt Bluff Street has a sales date of January 4, 2016. The 7.81 acre property sold for \$10,100,000. After adjusting for excess land (\$864,900) the 32,834 square foot building footprint (with 40,435 square feet of building area) derived an adjusted rate of \$258.38 per square foot and a capitalization rate of 5.93%;
- V. 77 Queensgate Crescent sold on November 3, 2014. The 7.93 acre property sold for \$14,000,000. After adjusting for excess land (\$1,207,300) and cost items (\$501,600) the 32,000 square foot building footprint (with 43,396 square feet of building area) derived an adjusted rate of \$378.72 per square foot and a capitalization rate of 5.05%;
- VI. 6 Burnt Lake Crescent has a dated sale date of July 18, 2012. The 4.99 acre site sold for \$7,197,700. The sale occurred in Red Deer County and has not been adjusted. The 21,600 square foot building footprint with an identical building area derived a rate of \$333.23 per square foot. No capitalization rate has been calculated;
- VII. 48 Belich Crescent is a slightly *post facto* sale date on July 28, 2017. The 3.01 acre site sold for \$3,175,000. The sale occurred in Red Deer County and has not been adjusted. The 15,000 square foot footprint (with 18,000 square feet of building area) derived a rate of \$211.67 per square foot. No capitalization rate has been calculated;
- VIII. 225 Burnt Ridge Road has sale date of March 27, 2015. The 9.04 acre site sold for \$5,800,000. The sale occurred in Red Deer County and has not been adjusted. The 13,760 square foot footprint (with 16,260 square feet of building area) derived a rate of \$421.51 per square foot. No capitalization rate has been calculated; and
- IX. 100 298 Burnt Park Way with a sales date of June 8, 2015. The 9.04 acre property sold for \$13,900,000. The sale occurred in Red Deer County and has not been adjusted. The 64,800 square foot building footprint (with 67,800 square feet of building area) derived a rate of \$214.51 per square foot. No capitalization rate has been calculated.

[33] The Respondent argued that the nine improved industrial property transactions are comparable with a range of 16,260 to 67,800 square feet of building area, have all been built between 1998 and 2014 and all entail warehouse buildings equal to or greater than 26' building height. Several of the sales have good exposure and offer a good level of comparability.

[34] The Respondent stated that the Complainant's analysis and requested assessment suggests that custom construction, 32' building height, substantial high quality showroom, reception and office development, and highway exposure have no impact on value.

[35] In conclusion, the Respondent argued that its evidence confirms both the applied market rent of \$15.00 per square foot and the capitalization rate of 6.75%. The overall assessment rate per square foot is also supported by the evidence.

## **BOARD DECISION, FINDINGS AND REASONS**

- [36] The Board's authority is found in section 467 of the *MGA*. The basic principles for assessment authority in Alberta start in the *MGA* at part 9 and section 284 where; assessed person, assessed property, assessment, assessor, etc. are defined.
- [37] There is no argument from either party on the legislative authority within the *MGA* and its related regulations.
- [38] Basic principles of assessment find that the subject property includes the land and the improvements on it. The valuation standard for land and improvements other than regulated improvements is market value.<sup>1</sup>
- [39] The assessment must be prepared using mass appraisal, it must be an estimate of the value of the fee simple estate in the property, and it must reflect typical market conditions for properties similar to that property.<sup>2</sup>
- [40] An improvement means a structure or any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure. It also includes machinery and equipment.<sup>3</sup>
- [41] A structure means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land to become transferred without special mention by a transfer or sale of the land.<sup>4</sup>

### **A) The Complainant's request concerning Market Value as calculated using the income approach for the following items:**

#### **A.i) Market Value – Rental Rate**

##### *Decision*

- [42] The Board determined that the assessed rental rate of \$15.00 per square foot will remain unchanged.

##### *Reasons*

- [43] The Board carefully reviewed all the evidence in support of the rental rate argument and finds that neither party supplied lease information in support of the requested \$11.50 per square foot or the assessed \$15.00 per square foot. The only leasing information provided for a similar use in a nearby property and was signed in December of 2007 for more than \$26.00 per square foot.
- [44] The Board is unable to change the assessed rental rate for the subject property without any evidence of rental rates for similar property. The Complainant suggested that the

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<sup>1</sup> *MRAT 6(1)*

<sup>2</sup> *MRAT 2*

<sup>3</sup> *MGA 284(j)*

<sup>4</sup> *MGA 284(u)*

assessed rental rate of a comparable property of \$11.50 per square feet should be applied; however, the Complainant failed to demonstrate that the properties were comparable from a rental rate perspective.

- [45] Likewise, the Board finds very limited evidence to place any value on the attributes that the Respondent indicated affected rental rate value; a.) building height, b.) highway exposure, c.) custom construction, and d.) office and showroom finish.
- [46] The Respondent showed two identically assessed properties, one with highway exposure and the other not. The Board finds the properties do not demonstrate a value attributable to highway exposure.
- [47] The Respondent showed six similarly assessed properties, five with high building heights and one with a low 22' building height. The Board finds no apparent adjustment for building height.
- [48] The Respondent provided comparable properties that have high levels of showroom and office finish and others with low levels of finish. The Board finds these properties are assessed similarly and do not demonstrate a value attributable to finish.
- [49] The Board finds no indication to support the Respondent's claim that custom built meant anything from an assessment perspective.
- [50] The Board finds no correlation between the assigned quality and tenancy codes and the rentals rates being applied by the Respondent.
- [51] The Board finds that the Respondent justified the rental rate through equity comparable properties only, no market evidence is provided; however, the Complainant failed to prove on the balance of probabilities that the applied rental rate is in error. Accordingly, the Board finds that there is no evidence before it to support any change to the assessed rental rate of \$15.00 per square foot.

#### **A.ii) Market Value – Capitalization Rate**

##### *Decision*

- [52] The Board changes the capitalization rate to the requested 7.25%.

##### *Reasons*

- [53] The Board examined all the evidence in support of the capitalization rate argument and finds that the Respondent provided no evidence to show that the assessed capitalization rate is correct at 6.75%. The only sale that both parties agreed upon has a calculated capitalization rate of 7.23%.
- [54] The other eight sales that the Respondent provided were of very little use to the Board as they either have no capitalization rate calculation, have no adjustments, have unexplained adjustments, or involved transactions with related parties, leaseback arrangements, or no open market exposure.

- [55] The Complainant provided a sale at 158 Queens Drive that calculates a capitalization rate of 7.20%. While the Respondent argued that it isn't comparable because of its characteristics; building height, highway exposure, level of finish and customization, it is of similar size and is in the vicinity of the subject property.
- [56] The Board finds the difference in applied rental rate of \$11.50 per square foot for 158 Queens Drive versus the subject property at \$15.00 per square foot accounts for the characteristics of; building height, highway exposure, level of finish and customization.
- [57] The Board finds the capitalization rate is reflective of the level of risk that an investor expects in a market place. The subject property and 158 Queens Drive are of similar size, in close proximity and stratified with the same tenancy classification, the Board finds that the capitalization rate is expected to be the same and changes the capitalization rate based on two sales (158 Queens Drive and 6870 Edgar Industrial Drive), both very near to the valuation date and both with similar tenancy classification.

**B) The Complainant's request concerning equity based on the assessments of comparable properties.**

*Decision*

- [58] The Board did not find an inequity in the assessment.

*Reasons*

- [59] The Board considered the evidence both parties provided on equity and determined that the subject property is equitably assessed with 7610 Edgar Industrial Court, 7650 Edgar Industrial Court, 83 Queens Drive, 129 Queens Drive, 158 Queens Drive and 96 Quinn Avenue.
- [60] The Board did not find any of the other equity comparable properties to be appropriate for comparison with the subject property due to the level of finish, exposure and in one case the combination of two separate titles to form one comparable.

**C) Whether the Board has the jurisdiction to deal with the Complainant's revised assessment request pertaining to an Access Right of Way**

*Decision*

- [61] The Board determined, that in this case, it does not have the jurisdiction to consider evidence in respect to a matter not identified on the complaint form or advanced during the evidence in chief.

*Reasons*

- [62] The Board deferred its' ruling regarding the admissibility of evidence pertaining to the Access Right of Way. The Board finds that it cannot consider the evidence presented, nor can it place any weight on that evidence, because MRAC Section 10(a) provides that "a

*composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.”*

#### **D) The Value attributed to the Access Right of Way**

##### *Decision*

[63] The Board did not calculate a value for the Right of Way.

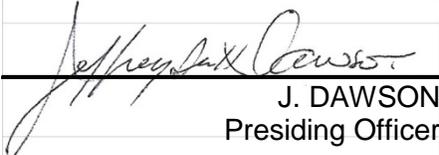
##### *Reasons*

[64] The Board determined that no adjustment will be made for the Right of Way and therefore need not put its mind to the value it would have calculated.

#### **DECISION SUMMARY**

[65] The Board finds that the Respondent value for the subject property is to be changed to \$6,475,700.

[66] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 19th day of July, 2018 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.

  
J. DAWSON  
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 finds 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 finds at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).*

**APPENDIX**

Documents properly disclosed for the Hearing and considered by the Board.

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**NO.**

**ITEM**

**CLERK MATERIALS**

1. A1 Hearing Materials provided by Clerk

**COMPLAINANT INITIAL DISCLOSURE**

2. C1 Complainant Disclosure

**RESPONDENT INITIAL DISCLOSURE**

3. R1 Respondent Disclosure
4. R2 Respondent – preliminary issue

**COMPLAINANT REBUTTAL DISCLOSURE**

5. C2 Complainant Rebuttal – Site Specific
6. C3 Complainant Rebuttal – Sales Information
7. C4 Complainant Legal Argument