



Complaint ID 0262 1653
Roll No. 30003110980

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: June 28 & 29, 2022

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

BETWEEN:

RIVER VALLEY PROPERTIES 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: 30003110980

MUNICIPAL ADDRESS: 8045 Edgar Industrial CR

ASSESSMENT AMOUNT: \$1,965,000

The complaint was heard by the Composite Assessment Review Board on the June 28 & 29, 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: There is no change required to the 2022 assessment.

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 subject property is a 1.17-acre parcel of I-1 zoned land located in the Edgar Industrial Park in Red Deer, Alberta. The parcel is improved with a 16,240 square foot (sf) single-tenant industrial warehouse which was constructed in 2001 and considered to be 5 quality and in good condition.
- [3] The subject property is assessed using the Income Approach to Value wherein the Net Operating Income (NOI) of \$137,553 is capitalized at the rate of 7.00% to determine an estimated market value for assessment purposes of \$1,965,000.

ISSUES

- [4] An assessment amount was identified on the Assessment Review Board Complaint Form as the matter that applies to the complaint. At the outset, the Complainant advised the outstanding issues were market value and equity, more specifically:
- I. Should the net market rental rate for the warehouse space applied in the Income Approach to Value be \$8.00 per sf rather than the \$10.00 per sf, used in determining the assessed value?
 - II. Is the subject property equitably assessed?

COMPLAINANT’S REQUESTED VALUE

\$1,450,000 (Complaint Form)
\$1,555,700 (Hearing)

PRELIMINARY MATTERS or PROCEDURAL MATTERS

- [5] There were no concerns with the panel as constituted. The Respondent has visited the site while the Complainant has not. The parties have discussed the file with no resolution.
- [6] The Respondent advised there were concerns with some materials included in the Complainant’s Rebuttal disclosure (C4). The Board requested the issue be raised prior to the presentation of the rebuttal. The Respondent, citing *section 10(b) of Matters Relating to Assessment Complaints Regulation, 2018 (MRAC)* requested the following pages in The Complainant’s Rebuttal (C4) not be heard as they constitute new evidence which has not been properly disclosed:
- I. C4 page 44 The Complainant stated this page is just responding to sales provided by the Respondent,

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- II. C4 pages 46-48 The Complainant stated this was a simple discussion of quality rating,
- III. C4 page 48 The Complainant stated this was an example of what the City of Calgary provides, and was intended as information for the Board
- IV. C4 pages 51-79 The Complainant stated pages 51-126 are simply regarding quality and how these change over time,
- V. C4 pages 80-101 The Complainant stated this is in response to position of the Respondent on quality changes,
- VI. C4 pages 102-126 The Complainant indicated this was not an actual response to Respondent's disclosure.
- VII. C4 page 158 The Complainant had no response,
- VIII. C4 page 242 The Complainant stated this was only a calculation working with numbers already on record to get more of an apples-to-apples comparison.

[7] Upon review, the Board concurred with the Respondent that the cited pages constituted new evidence that had not been properly disclosed and excluded them from the hearing.

Section 10(b) of MRAC states:

10 A composite assessment review board panel must not hear

(a) any matter in support...

(b) any evidence that has not been disclosed in accordance with section 9.

POSITION OF THE PARTIES

Issue: Rental rate

Complainant's Position

[8] The Complainant submitted the assessed rental rate parameters appear to be applied in an inconsistent manner, which has resulted in the subject rental rates being overestimated. Further, the subject property was available throughout 2021 at a rental rate of \$7.00 per sf and received very little interest.

[9] The Complainant provided a table titled Rental Rate/Excess Land Analysis. The table contains actual rent achieved for five properties, including the subject property, with lease start dates in the period November 2020 thru March 2021. The actual rents achieved range from \$3.75 to \$10.00 per sf. In addition, the table contains Listing/Listed rents from four properties which range from \$7.00 to \$11.00 per sf. The median rent rate when all properties are taken together is \$8.00 per sf. The Complainant requested the rate of \$8.00 per sf be applied to the warehouse spaces in the subject property assessment.

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- [10] The Complainant provided Tenancy lists, Ortho mapping, Overhead photos, Exterior photos, Summaries of Base Lease Provisions, Assessment Summaries, and the Income Approach calculations for each of the comparable properties in the table. It opined that most of the comparable properties were superior to the subject property.
- [11] The Complainant provided an excerpt from The Appraisal of Real Estate, Third Canadian Edition noting that “Listings, which represent the owner’s perception of the property’s value, usually reflect the upper limit of value. Offers, which represent the buyer’s perspective, commonly set the lower limit of value.”

Respondent’s Position

- [12] The Respondent submitted that the market applied lease rates are both fair and equitable and that they represent an accurate estimate of market typical leases for comparable properties.
- [13] The Respondent, in reviewing the Complainant’s Rental Rate Analysis noted that the table contained four listings and four single-tenant buildings. Further, the subject property was one of the four listings, and the asking rate was \$10.00 per sf.
- [14] The Respondent provided a table titled Industrial Lease Rate Analysis. The table contains lease information from nine single-tenant, 4-quality industrial properties with lease start dates in the period May 1, 2019 to November 30, 2021. The lease rates range from \$6.40 to \$15.79 per sf and the median lease rate for all spaces is \$10.71 per sf. It noted the subject property is assessed using \$10.00 per sf.
- [15] The Respondent provided a table titled Single Tenant Industrial Sales Analysis. The table contains property and sales information from three sales which occurred in the period August 16, 2018 to November 23, 2020. The sale prices range from \$114 to \$157 per sf, with a median sale price of \$131 per sf. It noted the subject property is assessed at \$121 per sf, within the range of the market sales. Further, the Complainant’s requested assessment is \$96 per sf, below the range of market sales.
- [16] The Respondent provided Photos of the Sales Comparable properties and an overhead map showing the proximity of the sales comparable properties to the subject property.
- [17] The Respondent submitted the subject property is actively listed for sale or lease noting the advertised lease rate is \$11.00 per sf, higher than what was applied in the 2021 valuation, and the asking sale price is \$2,500,000.
- [18] The Respondent provided information for a sale which occurred on October 4, 2021, post-facto the July 1, 2021 valuation date. The sale price was \$141 per sf. It surmised that if the Complainant’s requested rate was applied to the sale, the cap rate required to achieve market value would be 4.52%.
- [19] The Respondent provided a table titled Rental Rate Support Documents advising that all lease rate comparable properties would come from this list.

- [20] The Respondent argued that the Complainant has relied on a limited number of rental rates, and placed weight on the lowest indicators of value without consideration for overall market value. It concluded the subject property is fairly assessed at a market typical rate of \$10.00 per sf.
- [21] The Respondent in summarizing stated that as per 2018 ABQB 501 it won't release any information that relates to the financial affairs of a third party. Further, the info provided to the Complainant is sufficient to determine how the subject has been assessed and is the same information that is supplied in other communities.

Complainant's Rebuttal Position

- [22] The Complainant argued that the Respondent's Rental Rate information is unreliable. It is impossible to determine whether the information provided to the taxpayer is valid in anyway. It is impossible to ascertain whether the leases are net or gross leases, whether they are arm's length, when they were signed, how much square footage the lease value is attributable to etc. The Respondent has provided very little information.
- [23] The Complainant argued that while there may be some sales that fall within the satisfactory ASR range of 0.95 to 1.05, there are many examples of properties which are not being assessed close to their sale prices.
- [24] The Complainant provided a table titled Rental Rate Support Documents that had been prepared by the Respondent, noting that the following information is all they could ascertain after further research:
- I. 7590 EDGAR INDUSTRIAL DR is owner occupied by ATCO,
 - II. 8022 INDUSTRIAL CR has two tenants (Trican Well Service / R James Western Star) and the lease rate is \$4.00 per sf,
 - III. 7610 INDUSTRIAL DRIVE is available for sublease with no operating business in the space,
 - IV. 8014 EDGAR INDUSTRIAL CR is leased by the Milo Group for \$3.75 per sf lease rate.
- [25] The Complainant provided a table titled Industrial Lease Rate Analysis as prepared by the Respondent noting there are no addresses given so it is impossible to verify any of the information other than there are five leases of 6 Quality properties with lease rates ranging from \$12.04 to \$17.88 per sf.
- [26] The Complainant provided a table titled Market Applied Lease Rates as prepared by the Respondent noting you cannot verify what is being used to support the rental rates.
- [27] The Complainant provided a table titled Respondent Evidence – Sales Information noting that only one of the sale properties was assessed with an Assessment to Sales Ratio (ASR) in the 0.95 to 1.05 range.
- [28] In support of its inconsistency argument the Complainant provided the property assessment details for the property located at 7839 49 AV, one of the Respondent's sale comparable properties, noting that there was an \$8.00 per sf rental rate applied and an 8.0% capitalization (cap) rate. It is a 3-

quality property whereas the subject is a 2-quality. It is superior to the subject property and yet it is assessed with an \$8.00 per sf rate while the subject is assessed with rates of \$8.50 and \$9.00 per sf.

[29] The Complainant cited *MRAC section 9(2)(b)i*, which reads;

(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, and . . .

and posed the question, “Is the Respondent’s disclosure in sufficient detail to allow the Complainant to respond”? The Complainant argued the Respondent’s leasing Information is not possible to rebut as it is unidentifiable and not testable in any way.

[30] The Complainant provided several Alberta Court of Queen’s Bench (ABQB) decisions which emphasized the Respondent’s requirement to provide disclosure in sufficient detail to allow the Complainant to respond.

Board’s Findings and Reasons for Decision – Rental rate

[31] The Board finds there was no clear market evidence provided by the Complainant to support its requested assessment.

[32] The Board finds the Respondent’s market evidence supports the \$10.00 per sf rental rate that has been applied in the subject property’s assessment and as a result there is no change required to that rate.

Issue: Equity

Complainant’s Position

[33] The Complainant submitted that from an equitable rental rate perspective, the assessed rate of \$10.00 per sf is on the high end of comparable and competing properties in Edgar Industrial Park which are assessed at rates of \$8.00 to \$9.00 per sf.

[34] The Complainant provided the assessment details for 8051 Edgar Industrial Dr, a single-tenanted warehouse located across the street from the subject property noting that the warehouse spaces are assessed at rates of \$5.00 and \$8.00 per sf.

Respondent’s Position

[35] The Respondent submitted the applied lease rates are both fair and equitable.

[36] The Respondent provided a table titled Market Applied Lease Rates. The table provides details for 40 single-tenant industrial properties located within the Edgar Industrial Park. It submitted that

equity is consistent at \$10.00 per sf with some adjustments due to footprint size of the main improvement.

Board's Findings and Reasons for Decision – Equity

[37] The Board finds the Respondent's evidence supports a conclusion that the subject property is equitably assessed when compared to similar and competing properties in the Edgar Industrial Park.

Conclusion

[38] As there is no change required to the typical market lease rates applied in the Income Approach to Value there is no change required to the 2022 assessment.

[39] 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 (4 pages)
2. C.1	Complainant Disclosure (167)
3. C.2	Complainant Rental Rate and Excess Land Disclosure (92) pages
4. C.3	Complainant Rebuttal (244 pages)
5. C.4	Complainant Legal (223 pages)
6. R.1	Respondent Disclosure (59 pages)
7. R.2	Respondent Legal (66 pages)
8. R.3	Edmonton (City) v Edmonton (Assessment Review Board) 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) In this Act,

- (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 that property.

s 460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

- (a) an assessment notice for
 - (i) residential property with 3 or fewer dwelling units, or
 - (ii) farm land

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.

(1.1) For greater certainty, the power to make a change under subsection (1) includes the power to increase or decrease an assessed value shown on an assessment roll or tax roll.

(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(9).

(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 (MRAT)

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. 7(1) The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

Matters Relating to Assessment Complaints Regulation, AR 201/2017 (MRAC)

s. 19(1) Parties to a hearing before a panel of an assessment review board may attend the hearing in person or may, instead of attending in person, file a written presentation with the clerk.

Meeting Procedures (COVID-19 Suppression) Regulation, AR 50/2020

s. 3(1) Where the Act requires a council, board or commission to hold a meeting in public, that requirement is deemed to have been complied with by holding the meeting by electronic means, including, without limitation, a teleconference, or a live, publicly streamed broadcast, if

- (a) members of the public are able to hear the meeting as it occurs,
- (b) any members of the public who would be entitled to make submissions at the meeting if the meeting were being held in person are able, before and during the meeting, to make submissions by email or any other method that the council, board or commission considers appropriate, and
- (c) the following persons attend the meeting by electronic means:
 - ...
 - (iii) in the case of a meeting of an assessment review board or the Municipal Government Board, the presiding officer,