



Complaint ID 0262 1723
Roll No. 30003311520

COMPOSITE ASSESSMENT REVIEW BOARD
DECISION HEARING DATE: SEPTEMBER 14, 2023

PRESIDING OFFICER: MARK OBERG
BOARD MEMBER: SANDI ROBERTS
BOARD MEMBER: DON WIELINGA

BETWEEN:

CVG Canadian Valuation Group Ltd.

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: 30003311520

MUNICIPAL ADDRESS: 4305 78 ST CR

ASSESSMENT AMOUNT: \$1,349,400

The complaint was heard by the Central Alberta Regional Assessment Review Board on the 14th day of September, 2023, via video conference.

Appeared on behalf of the Complainant: Gary Smith, CVG Canadian Valuation Group Ltd.

Appeared on behalf of the Respondent: Sehaj Gill, Cale Green and Tyler Johnson, City of Red Deer

DECISION: The assessed value of the subject property is confirmed at \$1,349,400.

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 (“subject”) is an industrial warehouse located on 3 acres of land (130,680 square feet (“sf”). The subject was assessed using the Income Approach to value. The building size is 10,000 sf, which produces a site coverage of 7.7%. The building was constructed in 2014. It is described as an industrial warehouse / 4-range property and has I2 IND, HEAVY zoning. 30,680 sf (.7 acres) of the total acreage is assessed as excess land having a value of \$146,500, which is included in the above assessment value. This land is assessed using the Direct Comparison approach to value.

PRELIMINARY MATTERS

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

POSITION OF THE PARTIES

Position of the Complainant

- [6] The position of the Complainant is that the assessment of the subject is greater than its market value due to the excess land value of \$146,500. They request that this value be removed, which results in a total assessment of \$1,202,900.
- [7] The Complainant stated that the assessed values for the improvements are not in dispute. The only issue in dispute is the assessment of the excess land area.
- [8] In support of a reduction in the size of land to be assessed as excess land, they presented an excerpt from the *Appraisal of Real Estate Canadian Edition – Appendix A*. They explained the difference between excess land and surplus land. Excess land is not needed to serve or support the existing improvement and is able to be subdivided from the total land area. Surplus land also is not needed to serve or support the existing improvement, however it is not able to be subdivided.
- [9] Using an aerial photo of the subject, the Complainant showed that subdividing the .7 acres of excess land is not feasible because the location of the building separates the excess land from the roadway. Subdivision of this portion of land is not possible, and therefore cannot be considered to be excess land. Further, the .7 acres is clearly shown serving and supporting the improvement.

- [10] To support the distinction between excess and surplus land, the Complainant presented a sale of industrial land that sold with 3.68 acres of excess land. Using aerial photos, they argued that this sale demonstrates an appropriate designation of excess land. On this property, the excess land is located away from buildings, is not needed to serve or support the existing improvement and is adjacent to a roadway. Therefore, it is able to be subdivided and fits the definition of excess land. They argued that the improvements on the subject are not arranged similarly and assessing .7 acres as excess land is not appropriate.
- [11] The Complainant concluded by requesting that the subject's assessment be reduced to \$1,202,900 based on the removal of excess land's assessed value of \$146,500.

Position of the Respondent

- [12] The position of the Respondent is that the assessment of the subject is fair and equitable, and requests that the assessment be confirmed at \$1,349,400.
- [13] The Respondent began their presentation with a description of the subject, and a review of the methodology used by the City of Red Deer ("City") for assessments based on the Income Approach to value.
- [14] They stated that the term "Excess Land Value" that is shown on the Income Report of the subject is not the same as "excess land", as is shown in the *Appraisal of Real Estate Canadian Edition – Appendix A*. They further stated that "Excess Land Value" is an "automatic title" in the assessment software that is used by the City. This value could be considered as "additional land value", because it includes both excess and surplus land. They explained that the City's assessment branch is unable to determine a property's ability to subdivide, or what size property that would produce. Therefore, all such additional land, whether it is excess or surplus land, is assessed at a surplus land rate which is lower than market value. They argued that surplus land has a lower value than market, but it does not have a zero value and should be assessed using a discount rate.
- [15] For the purpose of consistency, except when quoting a document, the term "additional land" will be used for the remainder of this decision.
- [16] The Respondent presented evidence titled *Excess Land Value Application*. It states that:

"The City of Red Deer labels excess land as any parcel that offers usable land that exceeds what is typically required in an industrial market district."

Such parcels are then provided an additional assessment for this additional land. The calculation that is used was provided, as well as a chart showing the threshold percentages of what would be considered a typical site coverage for the different industrial subdivisions of in the City. They continued to explain that:

"Parcels identified and valued with an "excess land" component will receive a market land adjustment to reduce the rate per acre/sf to a value that is lower than the market typical land value. This is designed to reflect the fact that this additional land will likely contribute a lower market value than a vacant parcel of land. Additionally, it demonstrates the typical expectation of diminishing returns."

A chart shows the adjustments used to value different sizes of additional land parcels; as the size of additional land increases, the downward adjustment of the assessment also increases. These adjustments range from parcels of less than one acre receiving a -20% adjustment to typical land value, to parcels of greater than 10 acres receiving a -50% adjustment to typical land value.

A table showing six industrial sales having additional land was provided to show that an accurate assessment is produced using the excess land calculations. During questioning the Respondent stated that a number of their comparable sales cannot be subdivided.

- [17] The Respondent presented the sale of a comparable industrial property at 7794 47 AV CL, which is located near the subject. This property is considerably older than the subject, however is considered similar to the subject in other respects. They argued that the additional land being valued at \$166/sf supports the assessed value of the subject's additional land at \$135/sf. No additional sale information document was provided.
- [18] During questioning the Complainant asked why the Respondent introduced a comparable property, which is market evidence, to support the subject's additional land value, since the value per sf of the additional land was not disputed by the Complainant. The Respondent stated that this comparable property shows that the value used to assess the subject's additional land is appropriate.

Complainant Rebuttal – Preliminary Matter

- [19] The Respondent stated that sections of Complainant disclosure C.2, the Rebuttal document, should be disallowed because they represent new evidence, being market evidence that was not identified as an issue in the Complainant's original disclosure.
- [20] The Board decided that the sections disputed by the Respondent would be allowed because the market evidence relates to market evidence that was brought forward by the Respondent.
- [21] Section 9(2) (c) of *The Matters Relating to Assessment Complaints Regulation, 2018* was reviewed. Regarding a rebuttal disclosure document, this section directs to "*allow the respondent to respond to or rebut the evidence at the hearing.*" The Respondent was advised that a Surrebuttal would be allowed as per the above quote.

Complainant Rebuttal

- [22] The Complainant argued that except for a sales comparable property provided by the Respondent, there has been no information provided to support their additional land valuation. Using the subject's assessed additional land valuation, the land market value used for assessment purposes was calculated to be \$260,000/acre.
- [23] The Complainant provided four sales comparables "*for the City of Red Deer and surrounding area*". They stated that three of these comparables are located in the County of Red Deer. The four sales had additional land values having a median value of \$218,685/acre, and an average of \$219,377/acre. Using the median value of \$219,000/acre, with a 20% reduction in value to \$175,200/acre, this calculates the subject's .7 acres to have an assessed value of \$123,496. During

questioning it was acknowledged that the first three sales took place from August 2018 to February 2019, which is considered to be pre-COVID.

- [24] The Complainant provided a critique of the Respondent's comparable sale (7794 47 AV CL), having a land value of \$166/sf. This property is older than the subject. As well, they cautioned against using only one sale to determine an assessment.
- [25] They stated that aside from the above comparable sale, the Respondent provided no evidence to support the land value of \$135/sf for the subject.
- [26] The Complainant provided two additional sale comparables, which were tabled with a sale comparable (7690 Edgar Industrial) that was not used by the Respondent for this hearing. The comparable at 7794 47 AV CL, shown in [24] above, was not included in the table. One of the additional sales comparables (7882 Edgar Industrial Way) is shown in [10] above, having a land value of \$98/sf. The second (4100 77 Street) is from the table showing six industrial sales the Respondent used to support their additional land calculations. This second comparable has a land value of \$117/sf. A reference to this table is found at the end of [16] above.
- [27] Because the clear intent of the Complainant was to use the Respondent's comparable sale at 7794 47 AV CL, the Board used this comparable's values in the table rather than the property at 7690 Edgar Industrial. The sale at 7794 47 AV CL has a land value of \$166/sf and took place in August 2022. During questioning the Complainant stated that despite the fact that the sale of 7794 47 AV CL was post facto, having a sale date of August 23, 2022 shows that it still can be used to show market trending.
- [28] During questioning the Complainant acknowledged that 7882 Edgar Industrial Way and 4100 77 Street have different zoning than the subject, and that one is located in a different industrial park. In further questioning, the Complainant did not agree that the three comparables show an upward market trend over time.
- [29] They argued that the above three sale comparables, having a median of \$117/sf, show that the subject's assessed additional land value of \$135/sf is too high. During questioning the Complainant acknowledged that no adjustments were provided to account for differences from the subject.
- [30] Five additional comparable sales of similar warehouses were presented. One of the sales was used by the Respondent to show that an accurate assessment is produced using the additional land calculations. This sale is from the last paragraph of [16] above. No adjustments were provided to account for differences, though there are large differences from the subject for some of these properties regarding: year built, zoning, site area, site coverage, and building area. These sales range from \$92/sf to \$166/sf, and have a median of \$124/sf and average \$130/sf. The subject's value is \$135/sf.
- [31] The Complainant argued that these five comparable sales show that the subject's assessed value of \$135/sf is higher than market value, and they requested value of \$120/sf for the additional land.
- [32] During questioning, the Complainant stated that two of the five comparables are outside the City. They acknowledged that an analysis was not performed to show the differences in value between properties in the City compared with properties in the County of Red Deer.

[33] The Complainant concluded by requesting the Board to remove the additional land value of \$146,500, for a total assessed value of \$1,202,900. Alternatively, the Complainant requested the Board to adjust the additional land value to \$120/sf, which calculates to a value of \$130,222 for a total assessed value of \$1,333,122.

Respondent Surrebuttal

[34] The Respondent provided a critique of the Complainant's four sale comparables at [23] above. Three are located in the County of Red Deer, and it is unknown what differences there would be regarding servicing, zoning and permitting in that jurisdiction. The remaining property at 8381 Chiles Industrial Way is in a different industrial park, has no servicing and no servicing tie-in available.

[35] The Respondent stated that though their sale comparable was post facto, it can be used to support an assessment.

[36] The Respondent provided a critique of the Complainant's three sale comparables at [26] and [27] above. They stated that 7882 Edgar Industrial Way is a multi-tenant property in a different industrial park than the subject, and the sale took place pre-COVID.

[37] The Respondent provided a critique of the Complainant's five sale comparables at [30] above. No analysis was provided by the Complainant regarding how the differences between the comparables and the subject should be adjusted. They further stated that the property at 4436 Industry Ave is not located in the City. This property has the lowest land value, being \$92/sf. 226 Clearview Dr is also outside the City, and has the second lowest land value, being \$115/sf.

[38] The Respondent concluded by requesting the Board to confirm the subject's assessment at \$1,349,400.

BOARD FINDINGS and DECISION

[39] The Board carefully considered the evidence and argument of both parties in determining the issues before the Board.

[40] The Board accepts the explanation from the Respondent regarding the blending of excess land and surplus land into one category of additional land, with all properties having this feature being assessed at a surplus land rate, which is lower than market value. The Board agrees with the Respondent's argument that surplus land has a lower value than market, but it does not have a zero value and should be assessed using a discount rate.

[41] The Board gives no weight to the Complainant's argument that the subject's additional land should be given an assessed value of zero.

[42] The Board finds that the *Excess Land Value Application* information is helpful to show the methodology used to calculate assessment of additional land by the City. It also serves to support the mass appraisal of properties having additional land in the City, which includes the application of a reduced land rate. However, the values related to additional land for an individual property such as the subject must be considered in the context of market value for that property. As stated in *Altus Group Ltd. v Alberta (City of Edmonton Composite Assessment Review Board)*, 2023 ABCA 35

para [14], “... the mass appraisal method is used by the assessor to prepare assessments, but does not apply to the Review Board’s review of an assessment following a complaint. The use of the mass appraisal method to assess based on market value, having regard to “typical market conditions”, does not displace the standard of “market value” with a standard of “average values”, “typical market prices” or “typical market value”. It follows that the Board is not obliged to look at “typical market values” if cogent, uncontroverted evidence of market value exists.” Therefore, the Board gives this information little weight.

[43] The Board considered the arguments made concerning the effects that the COVID pandemic had on the sales of industrial properties. The Board understands that the City used sales that took place during this timeframe to calculate assessments, however there was no evidence provided to show how the sales were effected. The Board gives no weight to these arguments.

[44] The Board gives no weight to the Complainant’s selection of four sale comparables “for the City of Red Deer and surrounding area”. Three of these sales are in the County of Red Deer, and no evidence was provided regarding differences in servicing, zoning and permitting between the two municipalities. The remaining sale has significant differences from the subject, including service levels and being located in a different industrial park. The Board finds that these four sales are not suitable to use as comparables.

[45] The Board considered the Complainant’s group of three comparable sales, which is made up of selections from both parties. All of these comparables have features which make them unusable to determine market value:

7882 Edgar Industrial Way – has different zoning, is much larger than the subject, is older than the subject, and is a multi-tenant property.

4100 77 Street – is more than five times the size of the subject, is older than the subject, and was not presented by the Respondent as a comparable to be used for establishing land market value.

7690 Edgar Industrial – has different zoning, is older than the subject, and is much larger than the subject.

The Board gives no weight to these comparable sales.

[46] The Board also considered the Complainant’s group of five comparable sales of similar warehouses. Two of these comparable properties are located in the County of Red Deer and as above, no evidence was provided regarding differences in servicing, zoning and permitting. While the remaining three comparables would require adjustments to make them more comparable to the subject, with the subject’s land value at \$135/sf, the median of \$143/sf and average \$147/sf support the assessment. As well, the values of the group, which ranges from \$132/sf to \$166/sf, bracket the subject at \$135/sf. The Board gives the most weight to this evidence.

DECISION SUMMARY

- [47] After considering the evidence and argument as presented by both parties, the Board finds that the original assessed value is confirmed at \$1,349,400, which includes an additional land value of \$146,500.
- [48] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 28th day of September, 2023 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.



Katlyn Kostashuk Clerk on behalf of Mark Oberg
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

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	HEARING MATERIALS PROVIDED by CLERK – 22 PAGES
2. C.1	COMPLAINANT SUBMISSION – 30 PAGES
3. C.2	COMPLAINANT REBUTTAL SUBMISSION – 14 PAGES
4. R.1	RESPONDENT SUBMISSION – 47 PAGES
5. R.2	RESPONDENT LEGAL BRIEF – 66 PAGES