



Complaint 0262 1661
Roll No. 30003211005

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

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

BETWEEN:

POLAR CREEK INDUSTRIES INC.
as represented by Altus Group Limited

Complainant

-and-

REVENUE & ASSESSMENT SERVICES
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: 30003211005

MUNICIPAL ADDRESS: 8164 Edgar Industrial Close

ASSESSMENT AMOUNT: \$1,907,400

The complaint was heard by the Composite Assessment Review Board on June 28, 2022, via video conference.

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

Appeared on behalf of the Respondent: Cale Green, Assessor, City of Red Deer
Del Stebner, 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 3.06- acre parcel of land located in the Edgar Industrial Park in Red Deer, Alberta. The parcel is improved with a 16,837 square foot (sf) single-tenant industrial warehouse which was constructed in 1988 and is a standard quality warehouse in fair condition.
- [3] The subject property is assessed using the Income Approach to Value wherein the net operating income of \$124,345 is capitalized at the rate of 7.00% to arrive at an assessed value of \$1,776,400. There is an Excess Land Value of \$131,000 added to arrive at the total assessment of \$1,907,400.

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 Excess Land valuation, more specifically:
- (a) Should the net market rental rate for the warehouse space to be used in the Income Approach to Value be \$8.00 per sf rather than \$9.00 per sf, as assessed?
 - (b) Should there be an Excess Land value applied to the assessment?

COMPLAINANT'S REQUESTED VALUE

\$1,550,000 (Complaint Form)
\$1,569,800 (Hearing)

PRELIMINARY 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] At the outset it was agreed that all argument and discussion with respect to the Complainant's Rebuttal Disclosure (C4) from File 1654 would be carried forward to this hearing.
- [7] 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, AR 201/2017 (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,
 - II. C4 pages 46-48 The Complainant stated this was a simple discussion of quality rating,

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- III. C4 page 48 The Complainant stated this was an example of what the City of Calgary provides,
- IV. C4 pages 51-79 The Complainant stated pages 51-126 are simply regarding quality and changes over time,
- V. C4 pages 80-101 The Complainant stated this is about quality changes,
- VI. C4 pages 102-126 The Complainant had no response,
- VII. C4 page 158 The Complainant had no response,
- VIII. C4 page 242 The Complainant stated this was only a calculation to get more of an apples-to-apples comparison.

[8] 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

POSITION OF THE PARTIES

Issue: Rental rate

Complainant's Position

- [9] The Complainant submitted the subject property's assessment is more than market value and the net market rental rate used in the Income Approach to Value should be no more than \$8.00 per sf.
- [10] The Complainant provided the Tenancy list for the subject property noting there is one tenant with a five-year lease. The lease start date is November 1, 2020, and the lease rate is \$8.00 per sf.
- [11] The Complainant provided the Summary of Basic Lease Provisions noting there are annual step-ups of \$0.50 per sf commencing November 1, 2021.
- [12] 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.

- [13] 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.
- [14] 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

- [15] 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.
- [16] The Respondent in reviewing the Complainant’s Summary of Basic Lease Provisions for the subject property noted the lease contains annual step-ups of \$0.50 per sf.
- [17] The Respondent provided a table titled Industrial Lease Rate Analysis. The table contains lease details from eight 3-quality warehouse spaces with lease start dates in the period December 2, 2018 to November 1, 2022. The lease rates range from \$6.90 to \$13.89 per sf and the median lease rate is \$8.95 per sf. It noted the subject property is assessed at the rate of \$9.00 per sf.
- [18] The Respondent provided a table titled Market Applied Lease Rate. The table contains property and assessment details of sixteen 3-quality single tenant industrial spaces, including the subject property, demonstrating market typical lease rates of \$9.00 per sf. It concluded the subject property is equitably assessed with similar and competing properties.

Complainant’s Rebuttal Position

- [19] 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.
- [20] The Complainant argued that while there may be some sales that fall within the satisfactory ASR range of 0.95 -1.05, there are many examples of properties which are not being assessed close to their sale prices.
- [21] 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,

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- 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.
- [22] 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.
- [23] The Complainant provided a table titled Market Applied Lease Rates as prepared by the Respondent noting it was not possible, to verify what is being used to support the rental rates.
- [24] 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.
- [25] 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 the same as the subject property. It is superior to the subject property and yet it is assessed with an \$8.00 per sf rate while the subject is assessed at the rate of \$9.00 per sf.

Board's Findings and Reasons for Decision – Rental Rate

- [26] The Board finds the Respondents lease rate analysis from eight 3-quality spaces supports the assessed rate of \$9.00 per sf and is more persuasive than the Complainant's lease rate analysis from five properties including the subject property. As a result, there is no change required to the assessed typical rental rate.

Issue: Excess Land

Complainant's Position

- [27] The Complainant submitted the subject property recently leased for a rental rate of \$8.00 per sf in November 2020. The rental rate is inclusive of the entire building as well as all the land. There is no additional cost to the tenant or value associated with the land. Applying an additional "Excess Land" value is inappropriate, as the assessed rent of \$9.00 per sf, more than captures the actual value associated with this property. The Excess Land value should be removed
- [28] Further, the assessments are calculated using the Income Approach to Value which reflects the income generating capabilities of the property based on current market lease deals. To add an additional value for Excess Land results in an implied rental rate which is significantly higher than market value.

- [29] The Complainant provided a table titled Rental Rate/Excess Land Analysis noting that in addition to the subject property, there are two other properties that have an Excess Land value added to the assessment.
- [30] The Complainant provided the Tenancy, Aerial maps, photos, Basic Lease Provisions and Assessment Summary for the property located at 8027 Edgar Industrial Drive. It noted this property has superior site coverage to the subject property and the entire site is included in the lease rate. It is assessed at the rate of \$9.00 per sf and there is \$822,400 added to the assessment for Excess Land.
- [31] The Complainant provided the Tenancy, Aerial maps, photos, Basic Lease Provisions and Assessment Summary for the property located at 8022 Edgar Industrial Crescent . It noted this property has superior site coverage to the subject property and the entire site is included in the lease rate. It is assessed at the rate of \$13.00 per sf and there is \$700,900 added to the assessment for Excess Land.
- [32] Similarly, the Listings for 8037 Edgar Industrial Court and 8020 Edgar Industrial Green have \$261,700 and \$172,400 added to their assessments for Excess Land. Of note, it appears all industrial properties with site coverage less than 15% have an Excess Land value added to their assessments.

Respondent's Position

- [33] The Respondent submitted the application of Excess Land is determined based on the typical site coverage ratio within an industrial park. Properties with a site coverage ratio that falls under the threshold determined for an industrial park receives an Excess Land valuation based on the following calculation:

$$\begin{aligned} \text{FOOTPRINT / SITE COVERAGE RATIO THRESHOLD} &= \text{TYPICAL AREA} \\ \text{TOTAL LOT AREA} - \text{TYPICAL AREA} &= \text{EXCESS LAND AREA} \end{aligned}$$

- [34] The Respondent defines Excess Land as property that features extra usable land that exceeds what is typically required in the market area. This additional land offers greater utility to the property owner and has value to the owner.
- [35] The Respondent provided a table titled Excess Land Analysis. The table contains details from seven recent sales of properties with excess land which are valued using the Income Approach to Value. The assessment to sale price ratios (ASR) range from 0.84 to 1.03 with a median ASR of 0.98 and an average ASR of 0.95. The Respondent opined that this analysis demonstrates that the process of applying an Excess Land value is supported by recent market transactions in the City of Red Deer.
- [36] The Respondent provided a table titled Industrial Sales Analysis. The table contains property and sale details from three sales which occurred in the period January 22, 2019 to March 6, 2022. The prices were \$118, \$98, and \$114 per sf. It noted the subject property assessment is \$116 per sf, within the range of the sale prices and the Complainant's requested assessment is \$96 per sf, below the range of the sale prices.
- [37] The Respondent provided details from a post-facto July 1 sale which occurred on October 4, 2021. The sale price is \$141 per sf which suggests sale prices in the Red Deer market may be trending up.

[38] The Respondent in summary asserted that it had provided property lists and the Complainant could have requested additional information for each roll number.

Complainant's Rebuttal Position

[39] The Complainant submitted the Respondent's analysis of Excess Land does nothing to satisfy the taxpayer that the Excess Land has been applied in a fair or equitable manner. The Excess Land adjustment has been applied to sales comparables in an inconsistent manner and it is impossible to identify how the Excess Land adjustment applies to the sales.

[40] The Complainant in reviewing the Respondent's Excess Land Analysis chart said it was unable to test the first, fourth and fifth sales.

[41] The Complainant recreated the Respondent's Excess Land Analysis chart noting the Excess Land value is being applied in an inconsistent manner, it does not know what Excess Land rate is being applied to each property, there is no sales information on any of the properties and there is no assessment information on any of the properties.

Board's Findings and Reasons for Decision – Excess Land

[42] The Board is not persuaded by the Complainant's argument that Excess Land does not affect market value and that the assessed rent more than captures the actual value associated with the subject property. The Complainant has not provided any market evidence to support this assertion.

[43] The Board finds the Respondent's process for determining Excess Land is elaborate and not transparent, however the Respondent's Excess Land Analysis demonstrates that applying an Excess Land value is supported by recent market transactions in the City of Red Deer.

Conclusion

[44] As there is no change required to the typical assessed rental rate of \$ 9.00 per sf and the Respondent has demonstrated that Excess Land adds value to the assessment, there is no change required to the assessment.

[45] 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. A1	Hearing Materials provided by Clerk (74 pages)
2. C1	Complainant Disclosure (158 pages)
3. C2	Rental Rate & Excess Land Evidence (92 pages)
4. C3	Complainant Rebuttal (244 pages)
5. C4	Complainant Legal (223 pages)
6. R1	Respondent Disclosure (57 pages)
7. R2	Respondent Legal (66 pages)
8. R3	Edmonton (City) v Edmonton (Assessment Review Board) 2018 ABQB 501

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) or (15), 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.