

Central Alberta

Regional Assessment Review Board

Decision: **CARB 0262 716/2016**

Complaint ID 716

Roll No. 30003011545

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: August 3, 2016

PRESIDING OFFICER: R. Mowbrey

BOARD MEMBER: A. Knight

BOARD MEMBER: R. Schnell

BETWEEN:

FINNING INTERNATIONAL INC.

Complainant

-and-

THE CITY OF RED DEER

Respondent

This decision pertains to a non-residential property assessment complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30003011545

MUNICIPAL ADDRESS: 7550 Edgar Industrial Drive

ASSESSMENT AMOUNT: \$ 54,919,100

The Composite Assessment Review Board heard the complaint on the 3rd day of August 2016, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant:

John Smiley, Agent with AEC Property Tax Solutions

Appeared on behalf of the Respondent for The City of Red Deer ("the City"):

Anna Meckling and Jason Miller, Revenue & Assessment Services

DECISION: The assessed value of the subject property is Confirmed.

JURISDICTION

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

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is located at 7550 Edgar Industrial Park in the city of Red Deer. The 30.89 acre site has a 13% site coverage and is classed as non-residential with land and improvements. This is an industrial site containing several buildings and machinery and equipment. The main improvements consist of a 89,114 square foot [“sf”] building, a 107,685 sf fabrication building, a 6,240 sf wash bay, a 5,600 sf seacan building, as well as industrial machinery and equipment.
- [3] The City performed the 2016 assessment utilizing the cost approach methodology. The City attributed market value to the land and used Marshall and Swift’s manual to assess the improvements. The 2016 assessment for the subject property is \$54,919,100.

PRELIMINARY MATTERS

- [4] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Complainant and Respondent confirmed that the complaint information before the board relates to matter #3, the assessment amount.
- [7] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaint.
- [8] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
A1 - Clerk Hearing Materials
C1 - Complainant submission
R1 - Respondent submission
R2 - Respondent case law submissions

ISSUES

- [9] The Board considered the parties’ positions and determined the following issues are to be addressed within this decision:

Issue 1: Is the subject a “special purpose” property?

Issue 2: Is the assessment of the “subject property” in excess of market value?

POSITION OF THE PARTIES

Position of the Complainant

- [10] The Complainant advised the Board that the subject property was next to Highway 2 and occupied by Finning International Inc. ["Finning"]. The complaint was filed on the basis that the subject property is not a "special purpose". In addition, the Complainant advised the Board that the assessment of the subject property was in excess of market value.
- [11] The Complainant stated the City has assessed the subject on the presumption of "special purpose" and therefore utilized the cost assessment methodology to assess the subject. The Complainant stated that this building should be assessed similar to other industrial properties using the necessary inputs to arrive at an income approach assessment.
- [12] Further, the Complainant advised that the income/capitalization methodology is typically used for assessments of this nature, and that the market value of the subject is the best method to value the property, as that is what someone would pay for the property.
- [13] The Complainant stated that Collicutt Hanover Services ("Collicutt") built this business for their purpose and the business grew very quickly. In 2007, Finning purchased the land along with improvements, and a number of employees moved to the new owner with retraining provided for Finning operations.
- [14] The Complainant referred to the improvements on site and referred to decision CARB 0262 554/2013, which shows land size/sf area of the property and buildings, and mentioned this was a very large property (C1, pg. 27-28).
- [15] The Complainant advised that, as noted in the CARB 0262 554/2013 decision, there are massive cranes in the building, and these are "as much buildings attached to cranes as cranes attached to buildings." The cranes were formally used by Collicutt for their purposes, and are now used by Finning to carry out the heavy lifting of equipment. The Complainant noted that the presence of large cranes and other characteristics have led to the City calling the subject "special purpose". The Complainant stated that aside from the characteristics of crane lifting capacity, these are typical buildings that were over-built to meet the specific purposes of Collicutt.
- [16] The Complainant referred to a Calgary decision, CARB 1149/2011-P, which stated:
- "in the opinion of the CARB, the Complainant was sufficiently able to demonstrate that the subject property was not materially different from other typical warehouse properties. While the CARB agrees that the subject property may have been built to a higher standard, there is no evidence that these attributes would be adequately recognized in the market and garner a higher value for the subject if it were put on the market for sale." (C1, pg. 63)
- The Complainant stated that they do not take specific exception to the use of the cost approach to attempt to determine the market value of a property, but the Complainant agrees with the statement from this decision and suggests that it applies to the subject.
- [17] The Complainant referred to the definition of a "special purpose" property taken from the dictionary of Real Estate Appraisal, third edition, which states:

“a limited market property with a unique physical design, special construction materials, or a layout that restricts its utility to the use for which it was built; also called special-design property.”

The Complainant stated that the subject property has unique materials, but if asked whether this restricts the use to building compressor packages, the answer is no.

[18] The Complainant advised the Board that although Finning did some renovations, and they currently do some assembly operations, the use has changed. The Complainant stated that just because the subject is over-built, does not make it a special use property.

[19] The Complainant referred to the publication, Tracks and Trends, where Finning President, Dave Parker, stated:

“Surprisingly, very few renovations were needed to make the facility compatible with the needs of Finning, even though it was a manufacturing plant in its former life. A few overhead doors were installed, as were some signs, and some of the interior space was reconfigured. Finning budgeted \$5.3 million for renovations, but it was a small price to pay, compared to a new building. This is a really good fit for us. For a building this size and magnitude, the renovations were relatively small.” (C1, pg. 69)

[20] The Complainant advised that the Respondent will likely point to the quote above to say that Finning purchased the property with the special features, but the fact remains there is a change in use. Collicutt was manufacturing, and Finning is not. Collicutt employees that transitioned to Finning were retrained in trades, so there was different use of the property and improvements and different employee duties. The Complainant stated the \$5.3 million also included the addition of a wash bay. The Complainant stated that it seems an unlikely conclusion to draw that the subject is a “special purpose” property that can only be related to the original occupant, and submits that this is what the City has done in determining how to assess this property.

[21] The Complainant advised that the previous Board hearing decision 0262 544/2013, also involving Finning and The City of Red Deer, made the wrong decision. The Complainant referred to the following excerpts from that decision:

“[116] The Board is not convinced that the subject property is a typical industrial property. The Board finds that the subject property has characteristics that are not often found in typical industrial properties nor is the subject representative of typical industrial properties.

[117] The Board finds that typical industrial properties are most often significantly smaller in area than the subject, have greater site coverage, have significantly shorter wall heights, do not have numerous cranes, do not have significant foundations to support the high walls and the lifting capacity of the cranes and do not have the significant capacity to hold the weight of the massive equipment that is assembled and overhauled within the subject buildings.” (C1, pg. 41-42)

With respect to the previous Board, the Complainant stated that the subject being unusual in size and fixtures does not render a property to be “special purpose”.

[22] The Complainant further referred to decision 0262 544/2013 Red Deer, noting the Board from that decision even cites a suitable definition of “special purpose” properties in their decision before making the error. The definition referred to is as follows:

“[110] ... “special purpose” properties are those that have unique designs, special construction materials, or layouts that restrict their ability to use for which they were originally built. They have limited conversion potential. Examples are houses of worship, schools, museums, and public buildings. If a property’s use is so specialized that there is no demonstrable market for it, but the use is viable and likely to continue, and estimate of value to the owner is the only alternative. Such an estimate is not necessarily an indication of value in exchange.” (C1, pg. 41)

The Complainant stated the previous Board had this information at their disposal, but ignored it and focussed on the size of the buildings and other features. The Complainant stated the building does not need to suit everyone, it just needs to suit typical users.

[23] The Complainant stated the previous Board made an error of calling the atypical subject “special purpose”. The Complainant stated that atypical is not the same thing as “special purpose”, and the previous Board made a leap that is not justified.

[24] Regarding the value of the property, the Complainant stated the previous appraisal done on the subject is dated and would not be relied upon for value (C1, page 77). However, the appraisal does provide factual data about the property, and the Complaint provided the following points on how it should be considered:

- Finning had commissioned a real property valuation report from Soderquist Appraisals Ltd. in 2013 to determine the market value of the subject property, as July 1st 2012. The analysis utilizes the income and direct sales approach to value. This includes the value for the crane-ways, which are part of the structure but excludes the cranes.
- While dated, the Complainant relies on the appraisal not for its determination of value, but because it provides well-considered factors in determining value. The use of the appraisal in this hearing is not in support of the actual value we seek, but serves only to bolster the factual data about the property and to provide third-party analysis of the type of improvements that are extant.
- The income approach to value in the appraisal suggests a rental rate of \$12.00 psf, a 5% vacancy rate, 1% structural repair allowance and a 7.5% capitalization rate. indicating a value of \$33,960,000 for the subject property.
- In the appraisal, the direct sales comparison approach, observes eight sales of properties deemed by the appraiser to be comparable, finding a range of value from \$106.42 psf to \$174.00 psf. The appraiser selects the value of \$150.00 psf to be the most indicative of value for the subject, indicating a value of \$33,851,000 for the subject.
- The appraiser reconciles the two results to a final estimate of retrospective value of \$33,925,000 (C1, pg. 24).

The Complainant will not be considering sales used by the appraiser in the 2013 appeal, nor asking the Board to consider them, as the report is now dated and those sales are of limited use to the Board considering the merits of the case before them.

[25] The Complainant asked the Board to consider one property in Calgary, referred to as “Enerflex”, which has sold numerous times over a period of time from 2011 to 2014 (C1,

pg. 9). The Complainant stated the most recent sale of Enerflex property was for \$49,000,000, which is some \$6,000,000 less than the current assessment of the subject, despite being significantly larger (C1, pg. 178). In questioning, the Complainant confirmed they had not spoken to the vendors or purchasers of these transactions. The Complainant argues that the sale value of \$155.00 psf suggests that the current assessment of the subject of \$262.00 psf greatly over-estimates the value of the subject property.

- [26] The Complainant stated that due to recent economic conditions, the owner-occupant at the subject property has chosen to contract its operations. The Complainant stated the brokerage is seeking a value of \$12.00 psf to \$13.00 psf for the shop space and \$14.00 psf to \$15.00 psf for the office. The Complainant stated that one of the agents assigned to the subject noted there has been limited interest in the space since it was listed in early 2016, and a lower value may have to be accepted (C1, pg. 157).
- [27] The Complainant stated that the above lease rates allow the Complainant to value the subject using an income approach. The Complainant concurs with the appraiser using a 7.5% cap rate. The Complainant noted that the Enerflex 2014 sale had a 6.2% cap rate, but noted that Enerflex had an established tenant already in place. The Complainant stated that since the subject property is atypical, the risk associated with the property requires a cap rate that reflects this risk (thus, a 7.5% cap rate).
- [28] The Complainant advised the Board on his findings using the income/capitalization approach. The Complainant used \$13.00 psf for the shop area, \$15.00 psf for the office, generalized vacancy of 7.5%, and a 7.5% cap rate for the two primary improvements and adding the cost values of the ancillary buildings, which yields a value for the property of \$33,770,011 (or \$161.49 psf).
- [29] The Complainant noted that using the same calculations, but using the 6.2% cap rate for the Enerflex sale, an alternate valuation would be \$40,653,878 or \$194.41/sf. The Complainant suggests this would be the absolute top value of the subject, which is still remarkably lower than the subject's assessment of almost \$55 million.
- [30] During questioning, the Complainant stated what while he had only a cursory inspection; another colleague had a more detailed inspection. The Complainant agreed there is no dispute with the size of the buildings. The Complainant further agreed that there are no comparables, whether local or from any jurisdiction, that are similar to the subject, and no comparable sales were included in the disclosure from manufacturing firms that are similar to the subject.
- [31] During questioning, the Complainant stated he is satisfied the City has done the cost approach calculation, but believes the best approach is the income approach, which is used on other industrial properties in the City.
- [32] During questioning, the Complainant confirmed it is "their opinion" that the previous Board's decision for the same property was in error (CARB 0262 544/2013), but confirmed that the Complainant did not to seek any leave to appeal that case.
- [33] During questioning, the Complainant agreed the special features at the subject property have been used by both past and present tenants, and agreed that the over-sized doors are huge. The Complainant further agreed there was a market for special features.

- [34] The Complainant rejected the question that current tenants are not under-utilizing the property. The Complainant states that utilization plays no role in the market value of the property, as utilization contemplates a specific purchaser, and what they would pay.
- [35] During questioning, the Complainant agreed that one cannot use post-facto data, and agreed that the e-mail referred to on pg. 157 of C1 is dated June 2016, but argues that the data is not “post-facto” because the data-lease rate is currently being sought. The Complainant agreed the listing was from 2016, and agreed that the June 2016 information was not available to the assessors for the 2015 assessment.
- [36] During questioning, the Complainant agreed that a reliable cap rate study uses sales that are both recent and similar. The Complainant stated that he considers the sales used in the Soderquist appraisal to be similar and somewhat recent. The Complainant conceded he did not do a more current cap rate study based on sales in the Soderquist appraisal.
- [37] In summary, the Complainant requests a reduction in the subject property assessment to \$33,770,000 (C1, pg. 11).

Position of the Respondent

- [38] The Respondent defended the City’s position by referring to CARB decision 0262 544/2013 (R1, addenda item 19), and noted that nothing has changed; the previous decision had the same issues, property owner, and Agent. The Respondent referred at length to this decision, and implores the Board to carefully read decision in its entirety, as it has the same arguments as those that are now before the Board.
- [39] The Respondent noted that the two issues identified in the argument this year are the identical two issues filed in the Complainant’s disclosure in 2012 with respect to the \$58.56 million (details in R1, addenda item 21). Further, the Respondent noted that the 2014 assessment was not appealed as the parties agreed to a fair and equitable assessed value of \$54,399,900 based on the cost approach (R1, pg. 15).
- [40] The Respondent advised that the current assessment for the subject is \$54,919,100. In addition, the Respondent noted that the Complainant’s request to the Board is to reduce the current assessment to between \$33,770,011 and \$40,653,878.
- [41] The Respondent stated that the subject is a unique, state of the art, facility. In particular, the two main buildings contain many special and unique features that distinguish these structures from typical industrial properties.
- [42] The Respondent stated that the Complainant suggests the subject property is not a “special purpose” building and that it is “unremarkable in most every fashion,” based on a third party appraisal report and the opinion of the tax agent. The Respondent advised the Board that the subject had many unique and special features which clearly distinguish it as anything other than typical, light industrial or unremarkable (R1, pg. 3-4 of item 19).
- [43] Regarding the term “special purpose” in reference to the subject facility, the Respondent advised the Board that Collicutt specifically designed and built the facility for the manufacturing and refurbishing of power generation and oil field gas compression equipment. Management of Collicutt was quoted as saying:

- “the pieces of equipment worked on in this facility were very large and heavy with units weighing up to 400,000 pounds.
- to accommodate the size of the equipment, special features were required.
- the shop areas had to be carefully designed to accommodate big overhead cranes, the flow of heavy materials, and the completed units weighing up to 400,000 pounds.
- the ceilings will be about 45 feet high.
- the buildings were designed to house Collicutt’s unique manufacturing operations and were intended to ensure optimum organization of work flow.
- columns with over one million pounds of load and pile caps poured were eight feet square and three feet thick.”
(R1, addenda items 7, 10, ad 11).

[44] The Respondent noted the architect for the Collicutt development stated that one of the features of the exterior curtain wall is structural silicone glazing, and there are no vertical mullions on the outside so it looks like one continuous pane of glass (R1, addenda item 8, last pg.).

[45] The Respondent advised that because of the oversize and overweight capacity of vehicles entering and leaving the facility, the City modified its road and bridge network along 67th Street (and Highway 11) to accommodate the heavy loads. The infrastructure upgrades that were specifically put in place for this facility still provide the only access road into the property that is able to handle the heavy equipment (R1, pg. 8).

[46] The Respondent advised that Finning purchased the property with improvements from Collicutt in 2007. The Respondent further noted that Finning’s 2008 annual report notes the purchase price of the Collicutt acquisition totaled \$136.4 million, with property, plant and equipment assets valued at \$99.255 million. In support of the numbers reported by Finning in their 2008 annual report, the Respondent advised the Board that the value of the land on the transfer was opined by Stephen Collicutt to be \$75 million (R1, page 10).

[47] The Respondent advised that Finning stated the facility was a “really good fit” for a building this size and magnitude, and the renovations were relatively small. Finning went on to say very few renovations were needed to make the facility compatible with the needs of Finning, even though it was a manufacturing plant in its former life. A few overhead doors were installed, as were some signs, and some of the interior was reconfigured. Finning budgeted \$5.3 million for renovations, but it was a small price to pay, compared to the cost of a new building. Further, Finning President stated:

“These are the largest and best equipped buildings in the company and they are critical to Finning’s ability to provide superior customer service.” “By bringing it all here, we’re going to standardize the way we do business and treat it like a manufacturing function” (R1, pg. 11).

[48] The Respondent noted that the \$5.3 million was only for structural costs, and referred to a 2008 Finning annual report which states, “costs related to the transition and integration of the Collicutt acquisition are into the COE - \$12.6 million” (R1, addenda item 16/ pg. 12 of article, under column 1. Financial Performance, 3rd bullet). Although the Complainant argued that “the subject is not “special purpose”, the Respondent submitted that this assertion is erroneous. There is no similar facility in Red Deer (R1, pg 12).

- [49] The Respondent advised the Board that previous Municipal Government Board ("MGB") decisions make it clear that a facility of this nature qualifies as a "special purpose" facility. The Respondent further referred to Calgary CARB decision 1496/2010, and noted that "based on the evidence presented, the Board finds the subject to be a unique property that is best valued by cost summation for assessment purposes" (R1, pg.13).
- [50] The income approach used by the Complainant is based on a capitalization rate derived from conventional properties that have little in common with the subject. The difference between the cost summation result and the direct comparison result is not simply extra depreciation or obsolescence, as put forward by the Complainant. Rather, in the Board's opinion, the difference is indeed the opposite. It is the premium that a user similar to the existing occupant would pay for the property rather than endure the cost and time delay of constructing a premise of similar utility.
- [51] The Respondent referred to CARB decision 1496/2010 (Calgary), regarding the premium a user similar to the occupant of a unique property would pay, rather than enduring the cost and time delay of constructing a new facility. The Respondent argued this is equally applicable to the subject. In the case at hand, Finning stated:
- after researching a variety of different options [since building its own facility would have been too time consuming, expensive and risky], the company jumped at the opportunity to tap the experience and work space of Collicutt.
 - this was the best option, and even more so as they ramped up operations there.
- [52] The Respondent provided an article containing details on the costs associated with a Finning building in Fort Mckay (R1, Item 22). Referring to this article, the Respondent noted it took Finning a further 4 years to complete construction of a new built-to-suit oil sands service facility on a leased site in Fort Mckay, a 160,000sf facility with 16 service bays, a wash bay, offices, change room, fueling station and a warehouse. The facility includes a sophisticated lube and exhaust system and high-speed rubber rolling doors. Thick floor slabs were necessary to accommodate the heavy haul and track equipment and there were four 50-ton, six 20-ton, six 30-ton, and sixteen 5-ton cranes suspended within the facility. The project cost a reported \$110,000,000 investment (R1, pg. 18 and addenda items 22 and 23).
- [53] The Respondent stated the most compelling and relevant evidence is the Red Deer decision CARB 544/2013, which details the most recent CARB decision with respect to the subject property. On that decision, the Board found the subject "is a limited market special use property," that, given the lack of reliable evidence, is appropriately valued using the cost approach. The Board on that decision confirmed the assessment of the subject property at \$58,272,200. The Respondent respectively agrees, and suggests that the Board's opinion in that decision remains true and valid today.
- [54] As a "special purpose" property, there are few available comparable properties within the City of Red Deer. The Respondent takes the position that the best method of valuation of the subject property is the cost approach, and has utilized this approach with reference to the Marshall and Swift manual.
- [55] The Respondent advised that the Complainant does not take exception to the use of the cost approach, nor do they dispute the calculations of value of the land or the calculations

of value of the improvements to it. The dispute is that the Complainant finds the best indicator of value for the subject property is derived using an income approach.

- [56] The Respondent takes the position that the best method of valuation of the subject property is the cost approach. The use of the cost approach is supported where the property being valued is new or nearly new, in situations where few comparable sales are available or when the improvements are unique or specializes (R1, pg. 16).
- [57] The Respondent then turned to a review of direct comparison approach. This approach is the most reliable when there is sufficient recent sales data available on comparable properties, as it reflects the actions of buyers and sellers in the market place.
- [58] The Respondent advised that legislation states:

MGA 293(2) ...“the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.”

The Respondent further stated that there are few available comparable properties within the city of Red Deer. Accordingly, the direct comparison approach is not the most reliable or appropriate valuation methodology for the subject property; however, the Respondent noted that an attempt at this approach may be instructive (R1, pg. 19).

- [59] The Respondent referred to a recent industrial property sale in the city of Red Deer and stated that this sale is in close proximity to the subject property. The comparable property at 77 Queensgate Crescent sold in November 2014, for \$15,200,000. The total site is comprised of 10.05 acres, with a two-storey executive office with elevator service, and a six-bay 40-foot clear height drive through industrial shop. The sale price of the Queensgate property sold for \$350.26/sf. The Respondent stated this sale was likely the next best quality property in the city compared to the subject, but still lacked many features which only identify with the subject, making the sale inferior in terms of establishing market value for the subject.
- [60] The Respondent noted that only one sale in the last three years was found in the city having any similarities to the subject. Further, the Respondent agrees with the previous Board's decision in CARB 544/2013 (Red Deer), where the limited availability of similar sale comparables persuaded the Board that “there is a limited market for the subject property.” Furthermore, this decision states: “a limited number of similar comparables means that adjustments for the variance in the characteristics are more difficult to determine.”
- [61] The Respondent noted that appraisal theory indicates that a lack of sales data is the biggest limitation of the direct comparison approach and in this regard; therefore, the direct comparison approach has very limited applicability to the subject property.
- [62] Lastly, the Respondent turned to the income approach analysis of a property in terms of its income producing capability. The Respondent advised that sales verification with the purchaser confirms the arms-length transaction, based on the 10-year lease income stream resulting in a 6.25% capitalization rate for this purchase. The Respondent noted the actual lease rate is confidential, but the Respondent can confirm that the lease rate

falls within the market rates for oilfield service properties in Red Deer between \$20.00 psf and \$24.00 psf.

- [63] The Respondent provided two leases for single tenant industrials that were signed in 2012. The leased area was 36,740 sf and 34,835 sf respectively. The applicable lease rates were \$23.20 psf and \$20.40 psf.
- [64] The Respondent noted that vacancy in the Edgar industrial park for 2015 was 4.71%, and the market vacancy used was 5%.
- [65] The Respondent produced a net operating income (“NOI”) for the subject property of \$3,965,656 using a \$19.00 psf triple net lease, a vacancy rate of 5%, an operating cost adjustment of \$3.50 psf, and a 1% non-recoverable expense adjustment. The Respondent selected an overall capitalization rate of 6.25% based on the local market place. The income/capitalization valuation of the subject is calculated to be \$63,450,500, which is 15% higher than the value derived via the cost approach, and thus supports the assessment (R1, pg. 25).
- [66] During questioning, the Respondent stated there was nothing to prevent another user from using these premises as per the current bylaws.
- [67] During questioning, the Respondent stated that the Queensgate Crescent owner is not the occupant and the lease is not a lease back. The Respondent stated the lease is for 10 years, but the actual lease rate is confidential, but can confirm that it is within the range noted for market rates for oilfield service properties in Red Deer, and is closer to \$20.00 psf than to \$24.00 psf. The Respondent also described where Queensgate Crescent was located, and explained that the subject is on the east side and Queensgate is on the west side of Highway 2.
- [68] During questioning, the Respondent further stated that rental rates in Edmonton and Calgary were likely used in the previous decision because the subject was “special purpose” and there was a lack of comparables in the city of Red Deer, so a more regional market was considered. The Respondent further stated that this is why the cost approach was used for the subject assessment rather than a direct comparable approach.

SUMMARIES OF THE PARTIES

Complainant Summary

- [69] In summary, the Complainant stated there was limited information on the Respondent’s \$21.00 psf lease rate (referring to the Queensgate comparable), and this does not tell a lot what the property would lease for.
- [70] The Complainant stated that Collier’s lease proposals indicate the best value at what the property is being marketed for. Although there are massive frames and massive doors, the subject is really just an industrial property on light industrial zoned land. In conclusion, the Complainant stated the best value for the subject property is what the subject is being marketed for by Colliers.
- [71] The Complainant stated that the Enerflex property was over assessed.

[72] In summary, the Complainant argued that the income approach is the best approach to use, and using a 7.5% vacancy rate and a 7.5% cap rate is reasonable for the subject property, which results at the Complainant's requested value of \$33,770,000.

Respondent Summary

[73] In summary, the Respondent stated the subject was a "special purpose" property and meets the definition that the Complainant outlined in his evidence:

"a limited-market property with a unique physical design, special construction materials, or layout that restricts its utility to the use for which it was built." (C1, pg. 4)

The Respondent stated this definition has been applied, and the subject is very unique in Red Deer. In addition, there is a limited market and sales in Red Deer.

[74] The Respondent argued that the direct comparable approach has limited applicability to the subject.

[75] The Respondent stated the Complainant's analysis is flawed and the Complainant has not met the evidentiary burden to show the assessment is wrong, unfair, or inequitable.

[76] The Respondent questioned the Complainant's inputs and quality of data used in arriving at the income/capitalization method of valuing the subject property. The Respondent challenged the Complainant's use of a lease rate of \$12.00 psf to \$13.00/sf for the shop and \$14.00 psf to \$15.00 psf for the office. The Respondent stated there is nothing factual about this, and given that Collier's is working with Finning, there could be possible bias with market rentals. In addition, the Complainant's email (C1, pg. 157) pertaining to this lease rate is about one-year post-facto.

[77] The Respondent challenged the Complainant's use of his 7.5% capitalization rate, noting it came from a dated appraisal and without market support.

[78] In conclusion, the Respondent respectfully requests the Board to confirm the assessment.

BOARD FINDINGS and DECISION

Issue One: Is the subject a "special purpose" property?

[79] The Board finds that the subject property is a "special purpose" property and it is fair, and equitable that the property be assessed using the cost approach methodology.

[80] The Board is mindful of the definition provided by the Complainant regarding "special purpose" building:

"a limited-market property with a unique physical design, special construction materials, or a layout that restricts its utility to the use for a "special purpose."

[81] The Complainant made the point that when Collicutt sold to Finning, the purpose for which it was built and the change of use from Collicutt's purposes to Finning's purposes would therefore change the status of the utility of the property.

[82] The Board finds the following:

- Finning bought the property knowing that the property would be a good fit for them and that, for a building of this size and magnitude, the renovations were relatively small.
- While the use may have changed, its utility for the use for a “special purpose” did not change.
- Finning purchased the property because of the very large and specialized equipment weighing up to 400,000 pounds.
- The property with unique buildings and special features is not ordinary.
- Finning purchased the site knowing about the enormous overhead cranes that could accommodate moving heavy equipment and the heavy duty site improvements.
- The subject was a “special purpose” building when Collicutt designed and constructed the facility, and the subject is still a “special purpose” facility with Finning.

[83] The Board is mindful that the City had to modify its road and bridge network because of the size and overweight capacity of vehicles entering and leaving the facility.

[84] The Board is persuaded by articles attributed to management of Finning, stating:

“Finning will obtain a total of 315,000sf of operational capacity, of which over 200,000sf is in modern, near purpose-built shop facilities in Red Deer.” ... “part of Finning’s \$145 million deal to acquire Collicutt, officially opened Friday under Finning’s name. With 200,000 sf of operational capacity, the COE offers customers exactly what they need: the capacity to keep them going.” (R1, pg. 10)

[85] The Board is further persuaded by Finning management references that indicate it took Finning a further 4 years to complete construction of a new-built-to-suit oil sands facility on a leased site in Fort McKay, a 160,000 sf facility with 16 bays at a reported \$110 million dollar investment. The Board does not dispute there would be many adjustments necessary for comparative purposes, but there can be no dispute, that the Red Deer site is larger and considerably less expensive than the Fort McKay site.

[86] The Board agrees with the parties that similar sales to the subject are scarce. Because of the scarcity of similar sales, the Board finds that the cost approach is the most useful approach for valuation of the subject property.

[87] The Board is mindful of CARB decision 1496/2010-P (Calgary), and suggests the same could apply to the subject. The decision states:

“it is the premium that a user similar to the existing occupant would pay for the property rather than endure the cost and time delay of constructing a premise of similar utility.” (R1, item 18/pg. 4 of 6)

The Board finds the use has changed from manufacturing to assembly and servicing of heavy equipment, but Finning required the same or similar heavy duty site improvements for its operators. The Board is persuaded that the facility continues to fit the definition of “special purpose”.

[88] The Board acknowledges that past Board orders can be persuasive and influential, but a Board is not bound to follow a previous Board order. However, in this case the Board has no disagreement with CARB decision 0262 544/2013 (Red Deer), which confirmed the subject was a “special purpose” property.

Issue Two: Is the assessment of the subject property in excess of market value?

[89] The Board finds the assessment of the subject property is not in excess of market value.

[90] The Board reviewed the direct comparison approach and reviewed the previous CARB decision 0262 544/2013 as it pertains to the Gettel appraisal (Respondent) and the Soderquist appraisal (Complainant). Both parties agreed that the appraisals in the CARB decision 0262 544/2013 were dated and could not be used to establish current market value for the subject. However, with respect to the appraisals, the Board:

- notes that virtually all of the sales comparisons used were from the Edmonton and Calgary region.
- accepts the Complainant reasoning this type of building fits a regional market and it is therefore ok to look at the municipalities along the Highway corridor (Edmonton, Red Deer, Calgary), such as huge distributions centres at Cross Iron Mills in Balzac
- finds the sales comparables submitted by both the Complainant and the Respondent were not adjusted adequately to reflect the difference between the subject and the comparables, so as to establish market value.
- finds that neither the Complainant nor the Respondent pursued the direct comparison approach because of the dated comparisons.
- thought it useful to point out, that if the sales comparisons were not considered dated, the Board would still have difficulty accepting the sales comparisons due to the fact that too many adjustments would be necessary to make the indicated result reliable for valuation purposes.

[91] The Board was persuaded by the one sale comparable brought forth by the Respondent at Queensgate Crescent in Red Deer. The comparable is in close proximity to the subject (across Highway 2), and was constructed in 2013 at a construction cost of \$15,200,000. The Board recognizes that comparables are very scarce in the Red Deer market, but this sale has a price of \$350.26 psf compared to the subject's assessed value of \$244.80 psf. The subject has considerably more outstanding features when compared to Queensgate Crescent. The Board therefore concludes the assessment is not in excess of market value when using the direct sales comparison.

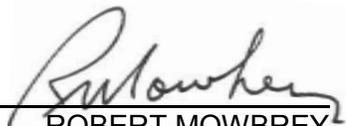
[92] The Board was persuaded by the income/capitalization methodology utilized by the Respondent. The Respondent found two 5-year leases in the Red Deer area. One lease (Edgar) and the second lease (Queensgate) leased for \$23.20 psf and \$20.40 psf respectively (R1, pg. 23). Of interest to the Board is the fact that the Complainant in CARB decision 0262 544/2013 (Red Deer) stated: "although lease ID 3185 (\$23.21 psf) is of a property in fairly close proximity to the subject property, this lease was signed in October 2012 and therefore it is post-facto data which should be given no weight." With the passage in time, this previous post-facto lease (\$23.21 psf) can now be considered a valid lease.

[93] The Respondent concluded that for a market lease rate of \$19.00 psf, a vacancy rate of 5%, an operating cost adjustment of \$3.50 psf, and a 1% non-recoverable expense adjustment, the net operating income NOI would be \$3,965,656. Using a vacancy rate of 5%, capitalizing the NOI at 6.25% (based on local market place), the resulting calculation of \$63,450,500 (rounded) was arrived at, which supports the assessment. The Board agrees that this calculation supports the assessment.

- [94] The Board was not persuaded by the Complainant's income/capitalization methodology to establish value for the subject. The Board does not agree with the Complainant's lease rate of \$13.00 per sf for the shop area and \$15.00 per sf for the office. In the first place, the lease proposal is post-facto by nearly one year and therefore cannot be used. Further, the lease amounts quoted appear to be an unsubstantiated opinion at best.
- [95] The Complainant utilized a 7.5% cap rate derived from the Soderquist appraisal. The Complainant recognizes the 6.2% cap rate of the Enerflex sale in 2014, but states the additional risk to Finning should warrant the 7.5% cap rate as Enerflex already had an established tenant.
- [96] The Board notes that even utilizing the Respondent's NOI of \$4,000,000 with the Complainant's proposed cap rate of 7.5%, the resultant valuation would be \$53,333,500 which approximates the current assessment of \$ 54,919,100.
- [97] In conclusion, the Board finds the subject is "special purpose". Regardless of the determination of special purpose, the Complainant still has not provided sufficient nor compelling evidence to show the Board the incorrectness of the assessment. The Complainant has not met the evidentiary burden of proof.

DECISION SUMMARY

- [98] The Board finds that the assessed value of the subject property is confirmed.
- [99] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, within the Province of Alberta this 19th day of August, 2016 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.


ROBERT MOWBREY
Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents Presented at the Hearing and considered by the Board

<u>NO.</u>	<u>ITEM</u>
1. A1	Hearing Materials with Agenda (10 pages)
2. C1	Complainant disclosure submission (28 pages) (followed by Addenda containing 27 items)
3. R1	Respondent disclosure submission (194 pages)
4. R2	Respondent submission of case law: "Assessor of Area #01 – Capital v. Nava Canada 2016 BCCA 71" Date: 20160116 / Docket: CA42401