

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being chapter M-26 of the revised statutes of Alberta 2000.

BETWEEN:

WINMAR Property Restoration, as represented by Altus Group Limited – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

Miles C. Weatherall, Presiding Officer

Alex McKenzie, Member

Staff:

Anita Hawkins, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on September 20, 2023, in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the subject property (subject), an industrial flex type building, located in the MacKenzie Industrial Park neighbourhood. The subject size is 8,150 square feet (sf) with an effective year built of 2006. The subject is considered to be in average condition and quality.

[2] For the current assessment year, the subject was assessed at \$2,179,790 calculated pursuant to the income approach to value.

Assessment Roll Number	30603030
Civic Address	165 MacLean Road
Owner	2378278 Alberta Ltd.
File Number	ARB 23-025

PROCEDURAL MATTERS

[3] The parties confirmed that they had no objections to the composition of the Board.

PRELIMINARY MATTERS

[4] The Respondent argued that the Complainant's rebuttal should not be accepted into evidence as it included new evidence in the form of the subject sale. After hearing submissions from both parties, the Board finds that the subject sale is pertinent to the merit issue in determining the estimated market value for the subject.

[5] The Complainant argued that the Respondent's surrebuttal should not be accepted into evidence and referred to several court cases in support of their position. After hearing submissions from both parties, the Board accepted the Respondent's surrebuttal into evidence. The Board finds that the surrebuttal was filed in a timely manner and is pertinent to the merit issue in determining the estimated market value for the subject. The Board takes the position that the *Matters Relating to Assessment Complaints* ("MRAC") Regulation, 2018, is silent on disclosure requirements for surrebuttal and that the purpose of the MRAC rules is the timely disclosure to allow the parties to know the case to be met. The Board notes that section 464(1) of the *Municipal Government Act* ("MGA") states:

"Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence."

ISSUES

[6] Is the subject assessment a current estimate of market value?

- Should the rent rate be \$29.00 per square foot (psf) or should it be reduced to \$26.50 psf?
- Should the subject sale be considered as a valid sale and be considered as the best indicator of market value?

COMPLAINANT'S POSITION

[7] The Complainant presented an equity analysis of seven comparable properties which indicate a median assessed value of \$26.50 psf. The comparables are warehouses located in the same industrial area as the subject, ranging in size from 11,010 to 56,796 sf with a year of construction range from 1977 to 2005. The range of assessed value is \$21.75

to \$28.75 psf. In support of their equity analysis, the Complainant provided photographs, maps and the assessment detail report for each comparable.

[8] In summary, the Complainant confirmed that their primary request was based on a reduction in the rental rate from \$29.00 psf to \$26.50 psf for a total revised assessed value of \$1,980,000 (rounded).

[9] In rebuttal, the Complainant provided evidence of the subject sale from May 24, 2022, which sold for \$1,000,000. The Complainant presented a land title and transfer documents regarding the sale. The Complainant referred to a sale brochure that showed the subject had lengthy exposure to the open market since November 2021.

[10] In summary, the Complainant confirmed that their alternative request for a revised assessment was \$1,000,000 based on the subject sale which occurred prior to the valuation date of July 1, 2022.

RESPONDENT'S POSITION

[11] The Respondent argued that little weight be given to the Complainant's equity analysis because the equity comparables are not similar to the subject. The effective year built of the comparables ranged from 1977 to 2005 compared to the subject's effective year built of 2006. The Respondent noted there was only one comparable (2005) similar in age to the subject (2006). The remaining comparables are much older than the subject.

[12] The Respondent presented a rental analysis based on recent warehouse Requests for Information (RFI's) used to determine the typical rent for industrial properties. The 12-warehouse equity comparables are located in the same neighbourhood as the subject, range in effective year built from 1979 to 2012, range in size from 1,700 to 29,200 sf, with a median net rent of \$32.75 psf. The Respondent noted that a slight rent increase occurs as the effective year built of the comparables becomes newer.

[13] The Respondent referred to another set of five equity comparables with an effective year built between 2012 and 2015, all newer than the subject's effective year built of 2006. The median rent rate was \$30.75 psf.

[14] Next, the Respondent provided a different set of 11 equity comparables with an effective year built from 2005 to 2010, more similar to the subject's effective year built. The median rent rate was \$29.00 psf and supports the subject assessed rate.

[15] The Respondent asserted that the last two sets of equity comparables supported their position that the typical market rate for industrial warehouses increases as the

effective year built becomes newer.

[16] In surrebuttal, the Respondent argued that the subject sale is not a valid, arm's length sale and no weight should be given to it. In support of their argument, the Respondent presented a copy of the land title and title transfer document which show that the director of the vendor is the same person as the director of the purchaser. The Respondent pointed out that the Government of Alberta Corporate Search documents for the numbered company for the vendor and the purchaser show the same address for the director in each search.

[17] In summary, the Respondent requested that the subject assessment be confirmed at \$2,186,500.

DECISION

[18] It is the decision of the Board to reduce the subject assessment to \$1,980,000 (rounded).

REASON FOR DECISION

[19] Based on the balance of probabilities, the Board find that the May 24, 2022, subject sale was not an arm's length sale. In reaching this conclusion, the Board places significant weight on the copy of the land title and title transfer document and the Government of Alberta Corporate Search documents for the numbered company for the vendor and the purchaser which show that the director for the vendor is the same person as the director for the purchaser. The Board also notes the documents show the same address for the director in the search for each of the two numbered companies.

[20] The Board places less weight on the Respondent's equity analyses because there was little evidence presented by the Respondent for the Board to determine their similarity to the subject. For example, the evidence did not include maps, photographs, or assessment detail reports for any of the equity comparables. The Board finds the Respondent's evidence is insufficient as it relied on charts of information with no supporting information.

[21] The Boards finds that the best evidence of the market value for the subject was presented by the Complainant's equity analysis. The Board notes that the Complainant's evidence included maps, photographs, and assessment detail reports for the equity comparables. While acknowledging the median effective year built of the equity comparables (1996) was older than the subject's effective year built (2006), the Board accepts that their location is similar and is satisfied that the detail of this evidence was more

persuasive than the lack of detail in the Respondent's evidence. The Board finds that the median assessed rate in the Complainant's equity analysis of \$26.50 psf is the best estimate of market value for the subject.

[22] The Board reduces the subject assessment to \$1,980,000 (rounded) based on a rent rate of \$26.50 psf.

[23] In coming to its conclusion, the Board has reviewed carefully the provisions of the *Municipal Government Act* ("MGA"), the *Matters Relating to Assessment Complaints Regulation* ("MRAC") and the *Matters Relating to Assessment and Taxation Regulation* ("MRAT").

[24] It is so ordered.

DISSENTING OPINION

There was no dissenting opinion.

[25] The decision of the Composite Assessment Review Board is final and binding on all parties. This decision may be judicially reviewed by the Court of King's Bench pursuant to Section 470(1) of the *Municipal Government Act, RSA 2000, c M-26*.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this
3rd day of October 2023.

FOIP s. 17(1)

Miles C. Weatherall, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
C1	Complainant's Disclosure – 187 pages
C2	Rebuttal – 91 pages
R1	Respondent's Disclosure – 25 pages
R2	Respondent's Law Brief – 58 pages
R3	Surrebuttal – 16 pages

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
Stefan Roth	Agent, Altus Group Limited - Complainant
Brett Robinson	Agent, Altus Group Limited - Complainant
Qing Dong	Assessor, Regional Municipality of Wood Buffalo - Respondent
Scott Kim	Observer, Assessor, Regional Municipality of Wood Buffalo Respondent - Observer

APPENDIX C

LEGISLATION

Municipal Government Act, R.S.A. 2000, c. M-26

Matters Relating to Assessment and Taxation Regulation, 2018 – AR 203/2017

Matters Relating to Assessment Complaints Regulation, 2018 – AR 202/2017
