

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:

Galloway Investments Ltd, Lenden Investments, as represented by Altus Group Ltd. –
Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

G. Sokolan, Presiding Officer

A. Green, Member

N. Mahgoub, Member

Staff:

A. Hawkins, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on October 1, 2024 via video conference, in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the following property:

Assessment Roll Number	30603510
Civic Address	235 MacDonald Crescent Fort McMurray, AB
Owner	Galloway Investments Ltd, Lenden Investments
File Number	ARB 24-018

[2] The property under complaint (subject) is a 44,132.50 square foot (sf) (1.013 acre), interior vacant land parcel located at 235 MacDonald Crescent within the MacKenzie Industrial Park. It is zoned Business Industrial (BI) and has been assessed as vacant land, using the Sales Comparison approach to valuation at a value of \$32.42/sf for a total of \$1,430,860.

PROCEDURAL MATTERS

The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.

[3] The Board wishes to clarify it is of the understanding this complaint is being heard against an assessed value of \$1,430,860, even though the 2024 Annual Assessment Notice found on page 19 of Exhibit C-2 indicates a value of \$1,913,520. The Property Assessment Notice was mailed on February 20, 2024 and indicates a Notice of Assessment date of February 28, 2024.

[4] Page 21 of C-2 contains a “RM of Wood Buffalo – Flex*Suite – Production Replacement Cost Summary Report” with a date of April 25, 2024 noting a ”Total Fair Value” of the assessment to be \$1,430,860.

[5] The Board was not presented with a corrected or amended assessment notice. A change to the initial assessment had been made to the assessment between February 28, 2024 and April 24, 2024. The appeal was of the amended amount. The submissions of both parties were based on the amended amount of \$1,430,860. Neither party made specific submissions about the amendment. Accordingly, the Board accepted that the corrected amount of \$1,430,860 was the issue under dispute.

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

[7] The Board confirmed it had no bias in relation to the matters.

PRELIMINARY MATTERS

Two Preliminary issues were raised by the Respondent, as follows:

Issue 1: The introduction of new evidence in the Complainant’s Rebuttal disclosure (Exhibit C-3).

Issue 2: Corrections to information contained in its disclosure document (Exhibit R-1).

Preliminary Issue 1: The introduction of new evidence in the Complainant’s Rebuttal disclosure.

Preliminary Issue 1: Position of the Respondent

[8] The Respondent submitted the Complainant introduced new evidence regarding the issue of equity in its Rebuttal disclosure (Exhibit C-3), stating the Respondent did not argue equity in its initial disclosure (Exhibit R-1). However, on pages 15 and 41 of its Exhibit C-

3, the Complainant introduced a table entitled “C1 & R1 Comparables Combined - ASR” which included the assessed value of the comparables introduced by both the Complainant and the Respondent. The table then calculated an Assessment to Sales Ratio (ASR) for each of the comparables. As well, the Complainant provided copies of the Assessment Report for each of the combined comparables on pages 21, 26, 30 and 41 in C-3 which identified the assessed value of each property.

[9] The Respondent’s position was that it had not provided any assessed values for its comparables in its disclosure and questioned if this information constituted new information. The Complainant could have easily introduced this information within its initial disclosure, providing the opportunity for the Respondent to consider this evidence when preparing its response. If the Board finds this assessment information to be new information, the Respondent requested the Board strike the noted table on pages 15 and 41, and all of pages 21, 26, 30 and 41 from Exhibit C-3.

Preliminary Issue 1: Position of the Complainant

[10] The Complainant responded that it had not introduced any new comparable properties to its initial arguments, it had simply rebutted the comparables introduced by the Respondent while responding to the market value argument. An ASR analysis of comparable properties is a common assessment tool used in defending assessment complaints.

[11] The Complainant indicated it could not have reasonably introduced this information in its original disclosure because it did not know what comparables the Respondent was going to use until they were presented in the Respondent’s disclosure.

Preliminary Issue 1: Decision

[12] It is the decision of the Composite Assessment Review Board to allow the alleged new information to stand and to place appropriate weight on it when deliberating the complaint.

Preliminary Issue 1: Reasons

[13] The Board weighed the arguments of both parties, noting they did not clearly identify the hardship the Respondent would suffer as a result of the evidence being heard and subsequently considered by the Board. Rather than trying to determine this issue prior to hearing the merit arguments of the complaint, the Board determined it appropriate to hear the evidence and place appropriate weight on its value during the Board’s deliberations.

Preliminary Issue 2: Corrections to information contained in the Respondent's disclosure document.

Preliminary Issue 2: Position of the Respondent

[14] As noted in the Background and Description of Property Under Complaint section of this decision, the subject of this complaint is an undeveloped land parcel in the MacKenzie Industrial Park. In its disclosure, the Respondent included a comparable property located at 175 McAlpine Crescent which was improved with two buildings. This property sold in September 2021. At the time it sold, it had been assessed on the cost approach using the 2021 Marshall and Swift Cost Guide to value the buildings. To improve the comparability of this parcel to the subject, the Respondent calculated the land value of this parcel at the time it sold using the extraction method to separate the value of land from its improvements.

[15] On page 42 of Exhibit C-3, the Complainant argued the Respondent had failed to convert the values found in the Marshall & Swift manual to Canadian dollars from US dollars, thereby understating the Assessed Value of Improvements and Land Value, and overstating Land Value/Acre in the third table on page 11 of R-1. The Respondent provided corrected converted values as follows, based on a local multiplier of 1.23 for Alberta Class S, as found on page 40 of C-3, and a tax removal of 1.05:

- Assessed Value of Improvement – should be \$1,170,598
- Land Value – should be \$18,290,401
- Land Value/Acre – should be \$1,299,697

[16] The Respondent requested the Board to replace these unconverted values with the values identified here.

Preliminary Issue 2: Position of the Complainant

[17] The Complainant stated it would not be appropriate to incorporate the Respondent's suggested converted values because the multipliers identified on page 40 of C-3 expired in October, 2021. To apply them to information being considered for an assessment based on a valuation date of July 1, 2023 would woefully misrepresent the value of the comparable.

[18] The Complainant indicated it would be satisfied if the Board allowed the corrected values to be introduced but considered the accuracy of the value of this comparable in its deliberations.

Preliminary Issue 2: Decision

[19] It is the decision of the Composite Assessment Review Board to allow the Respondent to introduce its value corrections for this comparable and to place appropriate weight on this evidence when deliberating the complaint.

Preliminary Issue 2: Reasons

[20] The Board considered the arguments presented by both parties and was satisfied it understood the Complainant's reservations regarding the evidence the Respondent has put forward for this comparable. The Board finds it appropriate to determine how impactful this evidence becomes when determining the outcome of this complaint.

ISSUES

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	\$1,430,860	\$800,000, revised to \$1,013,000 during the merit hearing

Issue 1: Should the subject's assessment be reduced to \$1,013,000 to reflect current market conditions?

MERIT MATTER

Position of the Complainant

[21] The Complainant contends the subject is over assessed at the current assessment of \$1,430,860. To support this, the Complainant introduced a comparable and competitive 2.13 acre vacant parcel in the same industrial park, at 250 MacLennan Crescent, with the same zoning. It has been listed at a price of \$1,000,000/acre on the open market for over 900 days. During this time, two offers to purchase had been received, but neither came to fruition.

[22] The Complainant supported the comparability of the two parcels with the subject using maps comparing each parcel's location, aerial and street view photos of both parcels, a listing sheet detailing the comparable, and a listing summary for the comparable verifying the existence of two pending offers. If this very comparable parcel has been unable to sell for a price that is substantially lower than the current assessment of the subject, the Complainant submitted it must be concluded the subject is over assessed.

[23] On this basis, the Complainant requested the Board to reduce the assessment to \$1,000,000/acre, for a total assessment of \$1,013,000.

[24] In Rebuttal, the Complainant dismissed all of the Respondent's comparables, finding them dissimilar to the subject. The Complainant considered Index 1, with a sale date of May 2019, to be a pre-facto sale – outside of the three-year window from the valuation date which is commonly accepted as providing a reasonable representation of the current market. The Complainant submitted any sale occurring outside of this window should be time adjusted to reflect the valuation date and the Respondent had not done this. Additionally, relative to the July 1, 2023 valuation date, a five year window ignores any

impact of COVID on the real estate market.

[25] The Complainant submitted the sale price provided for Index 2 is inaccurate as it was derived from outdated Marshall & Swift data, as discussed as a Preliminary issue, and it is approximately 4.5 times larger than the subject. Index 3 is located in the Timberlea area which is some distance north of the subject location. Access to the highway and airport are different from this location, attracting a different kind of buyer. This eliminates the comparability of this sale. Index 4 is zoned Shopping Centre Commercial (C3) which would attract a different type of buyer.

Position of the Respondent

[26] The Respondent reviewed the Complainant's comparable at 250 MacLennan Drive, suggesting the reason it has not sold could be due to its location on an internal roadway within the industrial park, resulting in less exposure when compared to the subject. Additionally, it has topographical challenges resulting in a steep grade from street level to the interior of the lot. This could make it challenging for larger vehicles. In combination, these features may make the subject less desirable than competing lots.

[27] Additionally, the Respondent submitted the Complainant's evidence that this lot has not sold at its list price of \$1,000,000 should not be taken as an indication the assessed value of the subject is too high. Listings only represent asking prices, which often do not reflect final sales values. Assessments are based on sales, ensuring a more accurate reflection of market value.

[28] In response to the Complainant's comparable, the Respondent introduced four land sales that occurred within the municipality in the previous five year period, which is the Respondent's defined period within which valid sales are considered to reasonably reflect the current market.

[29] Three of these were sales of vacant land; one represented a similar but developed parcel for which the land value was extracted from the sale price. Two of the vacant land sales are located within the MacKenzie Industrial Park, similar to the subject. The remaining two sales are located in the Timberlea area; one in the TaigaNova Industrial Park, the other in the Stone Creek South neighbourhood. The Respondent notes that while Index 4 is zoned C3, which is a commercial zoning unlike the subject, there are 24 permitted and discretionary land uses that are allowed within both the BI and C3 land use districts, making this parcel comparable to the subject.

Index	Address	Subdivision	Zoning	Site Area	Sale Price/acre	Sale Date	Distance to subject
	235 MacDonald Cres Subject	Mackenzie	BI	1.01 ac	\$1,412,358		
1	185 MacDonald Cres	Mackenzie	BI	1.73 ac	\$1,589,595	May 2019	300 m

2	175 MacAlpine Cres	Mackenzie	BI	13.87 ac	\$1,312,236	Sept 2021	1.85 km
3	P:221267 B:3 L:1A	TaigaNova	BI	1.11 as	\$1,800,000	Oct 2022	15.5 km
4	760 Prospect Drive	Timberlea	C3	1.00 ac	\$3,000,000	Jan 2023	14.6 km
	250 MacLennan Cres Complainant's Comparable	Mackenzie	BI	2.13 ac	\$1,000,000 (List)		1.6 km

[30] The Respondent noted the assessed value of the subject falls within the range of sales prices of these four comparable properties, indicating its assessed value is a fair and reasonable representation of market value. The Respondent requested the Board confirm the current assessment.

DECISION

[31] It is the Decision of the CARB to leave the assessed value of the subject unchanged at \$1,430,860.

REASON FOR DECISION

[32] In coming to its conclusion, the Board has carefully reviewed 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”).

[33] The Board finds the Complainant failed to provide sufficient evidence, on the basis of a balance of probabilities, to show the subject assessment is inaccurate. Proof on a “balance of probabilities” requires that, in order to find that a certain fact exists, the decision-maker must be more convinced of the existence of that fact than not.

[34] The Complainant has requested the Board lower the assessment to \$1,000,000/acre on the basis that a comparable property has been on the market listed at that value in excess of 900 days and has not sold, despite two pending, but unsuccessful offers having been considered by the seller.

[35] The Board is tasked with determining if the subject’s assessment is a reasonable indication of its market value. To come to that determination, the Board must have a realistic indication of what market value should be. The Complainant’s evidence did not provide the Board with any additional information about the actual market value of the subject.

[36] It would not be fair or equitable for the Board to lower the assessed value to an amount less than the assessed price without being persuaded, on the basis of market evidence, the lower price was a better representation of market value. A listing is not market evidence; sales are. Basing an assessment on sales prices between a willing buyer and a willing seller provides concrete data that the sale price represents its market value.

[37] The Respondent provided four land sales in response to the Complainant's comparable. The Board placed weight on Indexes 1 and 3, finding them to be comparable to the subject and finding it reasonable to consider a sale that occurred in 2019 within an acceptable window of consideration, given the limited sales activity that has occurred in the RMWB. The subject's assessed value of \$1,412,358/acre is lower than either of these comparable sales prices, which the Board finds supports the assessment.

[38] The Board gave no weight to Index 2, concluding it was not comparable to the subject. Not only was there controversy between the parties regarding the method used to extract the land value from the improved parcel, but the parcel is approximately 4.5 times larger than subject parcel, reducing its comparability. The C3 zoning of Index 4 was considered sufficiently dissimilar to the subject for the Board to give it little weight.

[39] Rather than using the Sales Comparison approach to valuation, the Respondent has used the Income Approach, which the Board finds to be reasonable given the limited scope of the RMWB's industrial real estate market. Accordingly, the Board finds the current assessment of the subject to be a fair and equitable representation of its market value as of the valuation date.

[40] In deciding the merit arguments of this complaint, the Board did not give weight to the comparable at 125 MacAlpine Way, rendering the preliminary matter of the conversion of US dollars to Canadian dollars and the relevancy of the multiplier moot.

[41] Similarly, the Board did not give weight to the ASR analysis information the Complainant introduced as evidence in rebuttal as such information did not inform the Board's decision. The objection raised by the Respondent in this regard is considered moot.

[42] It is so ordered.

DISSENTING OPINION

[43] There was no dissenting opinion.

[44] The decision of the Composite Assessment Review Boards 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 24th day of October, 2024.

FOIP Section 17(1)

G. Sokolan, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
C-1	Complaint Form (3 pages)
C-2	Complainant Submission (174 pages)
C-3	Complainant Rebuttal (45 pages)
R-1	RMWB Assessment Disclosure (49 pages)
R-2	RMWB Law & Legislation Brief (58 pages)
R-3	Consolidated Land Use Bylaw 99-059 (500 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
S. Roth	Altus Group Limited - Representing for Complainant
S. Ahansen	RMWB – Representing the Respondent
S. Kim	RMWB - Observing

APPENDIX C

LEGISLATION

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
- (a) the valuation and other standards set out in the regulations for that property.

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

- (a) an assessment notice for

- (i) residential property with 3 or fewer dwelling units, or
- (ii) farm land

s. 460.1(2) Subject to section 460(14), a composite assessment review board has jurisdiction to hear complaints about

- (a) any matter referred to in section 460(5) that is shown on
 - (i) an assessment notice for property other than property described in subsection (1)(a)

s. 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

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

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

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

Matters Relating to Assessment and Taxation Regulation, 2018, AR 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.

s. 9(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless subsection (2) or (3) applies.

Matters Relating to Assessment Complaints Regulation, 2018, 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.
