



CENTRAL ALBERTA REGIONAL  
**Assessment  
Review Board**

Complaint ID 0262 1574  
Roll No. 30000920020

COMPOSITE ASSESSMENT REVIEW BOARD DECISION  
HEARING DATE: September 14, 2022

PRESIDING OFFICER: Barbara A. Samuels  
BOARD MEMBER: Allan Tarnoczi  
BOARD MEMBER: Don Wielinga

BETWEEN:

Artifact Properties Ltd.  
as represented by Altus Group Limited

Complainant

-and-

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 Municipality of Red Deer as follows:

ROLL NUMBER: 30000920020

MUNICIPAL ADDRESS: 2810 50 AV

ASSESSMENT AMOUNT: \$11,3341,800

REQUESTED AMOUNT: \$7,102,500

The complaint was heard by the Central Alberta Regional Assessment Review Board on the 12th day of September 2022, via video conference.

Appeared on behalf of the Complainant: A. Iazard, Altus Group Limited

Appeared on behalf of the Respondent: D. Davies, Assessor City of Red Deer

**DECISION:** The current assessed value of the subject property requires changing to \$7,102,500.

**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 is a one-story Retail Box Store with an assessable area of 40,000 SF. The year of construction is 2021. The subject has an assessable land area of 5.83 acres. There are commercial location adjustments for exposure and access. The subject has been assessed at 85% complete as of December 31, 2021.

**Location:** 2810 50 AV

**Property Type:** Retail Store

**Zoning:** Commercial C-4

**Subdivision:** South Hill

**Valuation Approach:** Cost (Marshall & Swift)

**PRELIMINARY MATTERS**

- [3] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [4] Neither party raised any objection to the panel hearing the complaint.
- [5] The Board informed the parties that the matters before it today began on July 18, 2022, however the hearing was adjourned due to a medical issue. In this case, all the prior disclosure evidence was brought forward to this De Novo hearing.
- [6] The Respondent raised a preliminary matter by requesting that its sur rebuttal, which was disallowed in the July hearing, due to being a late submission, be allowed for inclusion in evidence in this hearing. The Complainant objected to the request since the Respondent’s evidence did not meet the rules of disclosure originally.
- [7] The Board recessed to consider the request and then decided that if the originally late sur rebuttal was allowed, it would contravene the rules of disclosure according to *Matters Relating to Assessment Complaints Regulation AR 201/2017* (MRAC). No new evidence was disclosed since the July 18<sup>th</sup> cancelled hearing. The Board decided to deny the request.
- [8] The Respondent raised a second preliminary matter regarding the circulation of three CARB decisions. There were no objections and the Board asked the Clerk to circulate these decisions to the Board.
- [9] Both parties indicated that they were prepared to proceed with the complaints.

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**ISSUE:**

[10] Does the application of the Cost Approach to the subject produce a fair and equitable assessment?

**POSITION OF THE PARTIES****Position of the Complainant**

[11] The Complainant argued that the site-specific assessment for the subject property is excessive due to application of the Cost Approach and noted that all other box stores in the municipality are assessed on the Income Approach.

[12] The Complainant presented photos, assessment records, and an analysis of site specific proforma including year of construction, assessable area, assessment and assessment per square foot, assessment approach, neighborhood, and location for all 16 properties on the Box Store inventory in the City. In particular, the Complainant noted that subject's assessable area of 40,000 SF falls within the mid-range of the comparables, however its assessment at \$299.45/SF is significantly out of the range of the mean (\$209.27/SF) and median (\$214.45/SF) of the 16 comparable Box Store properties.

[13] The Complainant, to test the comparability of the subject, calculated the value of the subject using the Income Approach and typical parameters the Respondent applies to Box Stores, which produced an assessment of \$7,102,500 at (\$163.93/SF) at 85% completion. When compared with the 16 Big Box properties the subject falls well within the range of those comparables.

[14] The Complainant argued that the current assessment (\$11,3341,800) calculates the value of the subject, now 85% completed, at 25%-35% higher than any other Box Store in the City. The Complainant stated that this demonstrates the inequities and inflated assessment of the subject property. The Complainant noted the unreasonableness of the Cost Approach being applied to an incomplete building by showing that at 100% complete, the subject's assessed market value would be increased to approximately \$13,300,000. The Complainant noted that the subject would have to achieve a rental rate of \$24.50/SF to achieve the final value. However, when "the last nail" has been hammered, the Income Approach would be applied in the next assessment year and the market value would drop approximately \$6,000,000. It was argued that this would be inconsistent with the purpose of assessment which is to achieve the market value of a property.

[15] The Complainant reflected on a number of CARB decisions particularly where the Board notes that using a cost approach for a property under construction and ending up with an assessment that is much higher than those of completed similar properties, using the same parameters, is contrary to *Matters Relating to Assessment and Taxation Regulation 220/2004 section 2(c)* that states: An assessment of property based on market value must reflect typical market conditions for properties similar to that property."

**Position of the Respondent**

[16] The Respondent argued that the "Complainant's evidence on this issue is unreliable because the argument on approach to value has no merit."

- [17] The Respondent noted that the 2022 assessment for the subject property has been estimated by the cost approach, based upon the fee simple estate of the property with a valuation date of July 1, 2021, and a physical condition date of December 31, 2021.
- [18] The Respondent provided information on the valuation process and methodology and noted that the City uses the Cost Approach on all buildings that are under construction. The reasons the Income Approach is not used is because income parameters cannot be determined or there are no sales of properties that are under construction and since the property does not generate any revenue, income parameters cannot be predicted such as rental rate, vacancy, vacancy shortfall, and cap rate. Cap rate cannot be determined as there are no sales of buildings under construction or that are brand new.
- [19] The Respondent demonstrated that the transfer of land to the owner of the subject occurred March 8, 2021, and the Certificate of Title, provided in evidence, stated that the value of the land was \$7,870,000. The Respondent argued that if the assessment was changed to the requested value of \$7,102,500, it would reflect only the value of the land and not the value of the 85% completed improvement on the property.
- [20] The Respondent impugned the 16 comparables brought forward by the Complainant because none of the Big Box properties are under construction or are new builds and therefore not comparable and do not support an equity argument.
- [21] The Respondent argued the Cost Approach is the best indicator of market value for properties under construction because it represents the market value for a new building. The Respondent provided a building permit for the subject issued May 3, 2021, that documented the total construction cost at \$3,900,000 which supports the assessment once the cost of the land is included.
- [22] The Respondent provided the Board with a calculation demonstrating the 85% as well as the 100% progression figures, including the value of the land, derived from the Marshall and Swift documents. The Respondent notes that the current assessment is lower than the actual cost. The Respondent advised the Board that once the construction of the subject is complete the valuation methodology will be switched to the Income Approach.

Marshall and Swift value at 85%	\$4,300,026.70
Purchase of Land	\$7,800,000.00
Total	<b>\$12,100,026.70</b>
Current Assessment	<b>\$11,341,800.00</b>

- [23] The Respondent explained that when the subject is assessed at 100% progression the Cost Approach would calculate the assessment at \$11,947,900.

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**COMPLAINANT'S REBUTTAL**

[24] The Complainant rebutted the Respondent's suggestion that new properties under construction must only be valued on the Cost Approach and argued that by utilizing a non-legislated guide, the Respondent failed to acknowledge that costs do not equal market value. Further, according to the Alberta's *Principles of Assessment* publication, the Cost Approach is used for special purposes or unique properties which does not apply to the subject which is a typical retail box store and should be assessed as one.

[25] The Complainant argued that the Respondent's attempt to support the current valuation utilizing the non-market sale of the subject lands, does not amount to a market value conclusion.

[26] The Complainant reflected on the commentary in the *Principles of Assessment*:

*"It is possible for a property to have a value that is less than its replacement cost, even immediately after construction of the building is complete."*

The Complainant noted that this commentary supports the notion that cost and market value are not always related to value in exchange.

[27] The Complainant impugned the way the Respondent relied on a non-market transaction for the justification of the land value since no sales verification questionnaire was provided in evidence related to the sale of the property, or other sales of land in the area to establish a typical value. Further, it was argued that there is simply no supporting justification for a value that is approximately \$100/SF higher than the typical value applied to Box stores in this size range in the City of Red Deer, especially when the owner of parcel of land, who is also the CEO of the tenant, confirms that the sale was not exposed to the open market. The Complainant cited several decisions to support the notion that non-market transactions are not to be relied upon as market evidence since motivations of the buyer and seller could be attributable to the sale price.

[28] The Complainant reflected on the Supreme Court of British Columbia decision *Swan Valley Food Ltd. v British Columbia (Assessment Appeal Board) (1979) BCSC No 423* and noted that the Assessment Board, as it could not find alternatives, confirmed the replacement cost as "the best available indicator of actual value without a scrap of evidence to suggest replacement cost represented the exchange of actual worth of the property." The Complainant noted that this was considered by the Court to be an error in principle and the decision of the Board was quashed.

[29] The Complainant argued that the Respondent, by admission, suggests that the value of the subject would be lower if the property was not newly constructed, which in itself suggests that the value is without merit.

**BOARD FINDINGS and DECISION**

[30] The Board acknowledged that prior CARB and Court decisions were submitted by both parties and taken into consideration. While this Board has the utmost respect for the decisions rendered by other panels, it was understood that those decisions reflected on issues and evidence considered in those hearings and were not binding on this Board. The Board's decision on this file was based solely on the evidentiary submissions and arguments before this Board.

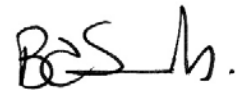
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- [31] The Board recognizes that all items of cost do not contribute to value and costs do not necessarily equal market value. The Board acknowledges that the Respondent is free to use the most appropriate, valuation methodology to determine the market value of a property.
- [32] The Respondent stated that the City uses the Cost Approach on all buildings that are under construction. However, the Board found that the application of the Cost Approach to the subject resulted in an assessment which is widely at variance with assessments of similar properties using, in this case, the Income Approach.
- [33] The Board questions whether the Cost Approach served the purpose of determining a fair and equitable market value since whatever approach to value is utilized, the resulting assessment must reflect typical market conditions for properties similar to that property. The accepted definition of how market value is determined using the Income Approach is “an estimate what a potential purchaser would pay for a property given its expected rate of return (i.e. income producing potential).
- [34] The Board acknowledges the commentary on cost and value in the *Principles of Assessment* which states that “cost is a component of the value or the amount of money to produce a commodity and all items of cost do not necessarily contribute to value. Value is the relationship between a thing desired and a potential purchaser and it is possible for a property to have a value less than its replacement cost, even immediately after the construction of the building is complete.”
- [35] The Board gave weight to the Complainant’s demonstration and evidence that the Income Approach, to assess the 16 comparables, when applied to the subject, would result in a significantly lower market value that better reflects typical market conditions and helps set a standard of prediction for a potential buyer. The Board found that the Income Approach positioned the subject within the range of values of similar properties and signals a reasonable expected rate of return for a willing buyer. The Board received insufficient evidence to the contrary from the Respondent.
- [36] The Board did not find the Respondent’s argument that the Cost Approach used by the City on all buildings that are under construction, compelling, nor does the Board accept the reasons that the Income Approach was not used because income parameters cannot be determined at this time since the subject does not generate any revenue, and income parameters cannot be predicted such as rental rate, vacancy, vacancy shortfall, and cap rate.
- [37] The Board finds that at 85% completion, it is clear that the subject’s destiny is a Big Box retail store. The Board recognizes that there are typical vacancy rates, typical cap rates, and typical rental rates for Big Box properties that could have been used by the Respondent to predict market value.
- [38] The Board found that the calculations from the Marshall and Swift methodology provided by the Respondent included cost items such as paving, management fee, miscellaneous costs to which the value of the land was added. The Respondent was unclear about how these costs were derived nor how they contributed to the market value of the subject. The Board placed little weight on the inputs to this Cost Approach calculation, in this case, because the validity of the inputs is questionable, as were the calculations provided by the Respondent.
- [39] The Board gave little weight to the Respondent’s reliance on a non-market transaction for the justification of the land value since there was no evidence of sales of land in the area to establish a typical value.

[40] The Board finds that using the principles of mass appraisal and typical market conditions of similar properties has been demonstrated by the Complainant, in this case, to the entire inventory of 16 comparable Big Box properties, and are legislated as must-dos, to reach the goal of a fair and equitable market value assessment.

#### **DECISION SUMMARY**

[41] On a balance of probabilities, the Board acknowledges and gives weight to the Complainant's argument that the assessment should be changed. The Board finds that the subject's current assessed value of \$11,341,800 requires changing to \$7,102,500.

[42] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 11<sup>th</sup> day of October, 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.



Barbara A. Samuels  
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](http://www.albertacourts.ab.ca).*

**APPENDIX**

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials provided by Clerk
2. C.1	Complainant Disclosure submission
3. C.2	Complainant Rebuttal Box Stores
4. C.3	Complainant Appendix A
5. C.4	Complainant Appendix B
6. C.5	Complainant Appendix C
7. R.1	Respondent Disclosure submission
8. R.2	Respondent Legal Brief