

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Linnell Taylor & Associates, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, T Golden
Board Member, J. O'Hearn
Board Member, T. Usselman***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBERS:	052127008
LOCATION ADDRESS:	6060 Memorial Dr. NE
HEARING NUMBER:	56581
ASSESSMENT:	\$9,800,000.00

This complaint was heard on 30 day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *D. Sheridan*

Appeared on behalf of the Respondent:

- *K. Gardiner*

Board's Decision in Respect of Procedural or Jurisdictional Matters:

There were no preliminary matters.

Property Description:

The subject property is a multi tenant strip mall with 41,191 square feet (sq ft) of area. Commonly known as Madigan Plaza there are a variety of uses common to this type of mall including a pharmacy and gas bar. The structures were constructed around 1979. Assessment values were determined using the income approach and adjusted upward for a corner lot and a main traffic artery.

Issues:

- 1) Is the commercial retail unit rental rate of \$21.00/sq ft used by the Respondent for lease areas up to 6000 sq ft in size the appropriate rate?
- 2) Is the capitalization rate of 8.25% used by the Respondent in the income approach the appropriate rate?

Complainant's Requested Value:

By substituting the suggested rental and capitalization rates into an income approach calculation the Complainant is requesting an assessment of \$8,830,000.00.

Board's Decision in Respect of Each Matter or Issue:

- 1) The Rental rate applied by the Respondent is the appropriate rate.

The Complainant presented 4 leases that demonstrate that the rental rate for this property would be \$17.50 /sq ft. This value was further modified by a review of selected leases from 10 additional locations. In part the locations were chosen because the information was available to their Company. Using the two sources of information it was concluded that the rental value for spaces less than 6000 sq ft. should be set at \$18.00 rather than \$21.00. In part the Complainant suggested that a lower rental rate is appropriate at this location as the structure is somewhat older and located in the extreme eastern part of the City. Another indicator of the lower performance of the strip mall

is that some of the new leases are signed on month by month basis signifying uncertainty in the market. The Complainants opinion of the Respondents evidence regarding lease information in the mall at 5269 Memorial Drive was that even though the comparable is in close proximity to the subject it occupies a much superior site.

In terms of defending the rental rate the Respondent relied on two main sources of evidence; firstly the Assessment Request for Information (ARFI) was presented showing all of the lease activity in the subject property. The ARFI demonstrated that certain newer leases such as Best Style Nail in the subject property were signed at \$22.00 to \$29.00. Information a 2010 ARFI was used to indicate a trend in leasing in the subject and again newer leases were signed above the \$21.00 rate. Selected leases were also submitted for 5269 Memorial Drive indicating 2008 leasing activity of between \$16.50 and \$25.00. The property at 5269 Memorial Drive is a similar strip mall 2 blocks to the West of the same main arterial road as the subject. The Respondent made it clear to the Board that much more leasing information went into determining the rental rate however the information presented was intended to be supportive of the assessment.

The Board is of the opinion that comparables used by the Respondent are stronger given that they are from the subject and a similar mall in very close proximity. The Complainants evidence was more selective and the comparables used were from more diverse areas of the City. There was insufficient evidence for the Board to adjust the rental levels established by the Respondent.

- 2) The capitalization rate of 8.25% used by the Respondent is an appropriate rate and requires no adjustment.

It was argued by the Complainant that the capitalization rate that should be applied in this case is 8.50% based on 2009 market sales of 5 properties and the reported capitalization rates provided by Real Net. These sales indicated a median capitalization rate of 8.70%. The Complainant further modified the requested capitalization rate by analyzing the sale comparables and arrived at an adjusted rate of 8.50%.

The Respondent stated that the City had conducted a capitalization study to determine that 8.25% was an appropriate rate. In support of the rate the Respondent provided the Board with a table of 7 sales of similar properties supporting the capitalization rates. One property at 5220/5010 4 St. NE. was also used by the Complainant. In further support of the assessment the results of third party industry reported capitalization rate studies were presented. Each of three company reports supported the Respondent rate of 8.25%.

The Board found that many of the Complainants comparables were not similar to the subject. The exception was 5220/5010 4 St. NE which was used by both parties. This property had a capitalization rate of 8.3% which support the assessment.

Board's Decision:

The decision of the Board is to confirm the assessment at \$9,800,000.00

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2010.



Tom Golden
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C-1 Letter of Complaint
2.	Exhibit C-2 Complainants Brief
3.	Exhibit R-1 Respondent's Assessment Brief
4.	Exhibit C-3 Complainant's Rebuttal

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*