

**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, Revised Statutes of Alberta 2000 (the Act).

between:

McDonalds Restaurants of Canada Ltd, COMPLAINANT (as represented by Colliers International Realty Advisors)

and

The City Of Calgary, RESPONDENT

before:

***F.W. Wesseling, PRESIDING OFFICER
H. Ang, MEMBER
S. Rourke MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER: 028288306

LOCATION ADDRESS: 5219 Falsbridge Dr NE

HEARING NUMBER: 64605

ASSESSMENT: \$ 2,040,000.00

This complaint was heard on 20 day of June, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *M. Uhryn*

Appeared on behalf of the Respondent:

- *S. Powell*

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

The respondent requested an interim decision that the appeal be dismissed as the data presented by the complainant was insufficient and lacked a demonstrated comparability to the subject property. The Board considered the request following the complainant's presentation. The Board denied the request by the Respondent as the Board determined the complainant had provided sufficient information to support their case for a reduction in assessment.

Property Description:

The subject property contains a standalone retail restaurant. The property contains 51,776 square feet of land while the improvements amount to 9,867 square feet.

Issues:

The Complainant raised the following matter in Section 4 of the Assessment Complaint form:
Assessment amount

Presentation of the Complainant and Respondent were limited to:

- Income approach vs land value.

Complainant's Requested Value: \$ 1,880,000.00

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

Complainant's Position: The property is assessed on the income approach and the only data put forward for the Board's consideration was that the capitalization rate of 7.5 % was too low and a request for 8.25% was put forward. In support of the capitalization rate change request, nine (9) retail sales were provided and briefly reviewed. These comparables showed a simple capitalization rate average of 8.63 % while the median rate was shown to be 8.27%.

Respondent's Position: The 2011 Capitalization Rate Study for Freestanding Retail, Strip Centres and Power centres was reviewed. The 7.5 % capitalization rate used on the subject property is justified by the 2011 study. Data on 2 of Complainant's comparable properties were provided which indicated that they were not valid to be used as comparable sales. In addition, it was pointed out that the complainant had no issue with the same capitalization rate on similar

free standing retail fast food outlets in North East Calgary.

Board's Decision: Upon reviewing the verbal and written evidence provided by the parties, the Board considers that Complainant failed to demonstrate that the assessment was above market value.

The Board confirms the assessment at \$2,040,000.00.

Reasons: The Board concluded that the comparable data provided by the Complainant failed to demonstrate comparability and validity. The data provided through the 2011 Capitalization Rate Study was compelling. The Board investigated using a capitalization rate of 8.13% based on two comparable sales (5445/5455 Falsbridge Drive NE) as well as land value approach and found that the assessment is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July 2011.



F.W. Wesseling
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

Complainant: C1 Complainant's Brief

Respondent: R1 Assessment Brief prepared by City of Calgary Assessment

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.*