

**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:

***Harmin Holdings Ltd, Ulster Developments Ltd c/o Ronmor Holdings 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: 032034522

LOCATION ADDRESS: 2480 37 Ave NE

HEARING NUMBER: 64230

ASSESSMENT: \$3,010,000.00

This complaint was heard on 23 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:

Following the presentation of the Complainant's rebuttal, the Respondent requested that the rebuttal not be considered by the Board as it had not met the requirements of MRAC 8(2)(c) in terms of the provision of a written summary of evidence. In addition, the Respondent claimed that new evidence was being introduced by the Complainant in the rebuttal package.

The Board, following a review, upheld the request by the Respondent and ruled that the rebuttal be inadmissible as the requirements as outlined in MRAC 8(2)(c) were not met in terms of the provision of a written summary of evidence.

Property Description:

Subject property is located along a major traffic arterial (Barlow Trail) and contains 74,293 square feet. Two free standing restaurants are located on the site with a combined floor area of 8,358 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:

- Assessment is not supported by the income approach.

Complainant's Requested Value: \$ 2,760,000.00

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

Complainant's Position: In support of the request, the focus of the presentation was that the capitalization rate utilized by the City is too low. The request outlined that a capitalization rate of 8.25 % should be used instead of 7.5%. Comparables sales data was analysed and presented. Nine non-residential sales comparables were outlined. These showed a simple cap rate average of 8.63 % while the median cap rate of typical normalized sales resulted in a rate of 8.27%. The Complainant challenged a number of the comparable sales in the 2011 Freestanding Retail Capitalization Rate Study prepared by the City Of Calgary

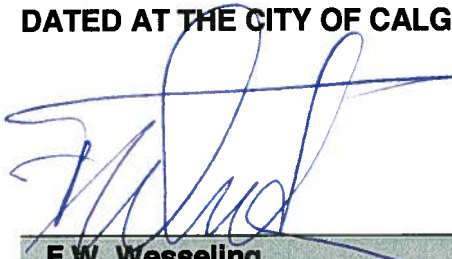
Respondent's Position: The Respondent indicated the property is assessed on the income approach. In support of the capitalization rate, the 2011 Freestanding Retail Capitalization Rate Study was presented to justify the use of the 7.5% rate. Information from the 2011 Strip Centre

Capitalization Rate Summary and 2011 Power Centre Capitalization Rate Summary were provided and it was pointed out that a number of the sales comparables provided by the Complainant were in fact part of strip malls and utilized by the City in their capitalization rate summary. Further the Respondent pointed to 2 comparable properties submitted by the Complainant as being invalid and provided supporting information to support that claim.

Board's Decision: Upon reviewing the verbal and written evidence provided by the parties, the Board considered that the Complainant failed to demonstrate that the assessment was in excess of market value based on the income approach. The Board confirms the assessment at \$3,010,000.00.

Reasons: The Board concluded that the comparable sale data provided by the Complainant failed to demonstrate comparability, validity and lack of equity. The data and general information provided by the respondent was more compelling and indicated that this property was assessed on an equitable basis.

DATED AT THE CITY OF CALGARY THIS 19 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.*