

**CALGARY
COMPOSITE 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:

Copperfield Corner Inc.
(as represented by Colliers International Realty Advisors Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J. Fleming, PRESIDING OFFICER
R. Roy, MEMBER
B. Jerchel, 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: 200431666
LOCATION ADDRESS: 15566 McIvor Bv. SE
HEARING NUMBER: 64599
ASSESSMENT: \$10,130,000

This complaint was heard on 25th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *D. Porteous*

Appeared on behalf of the Respondent:

- *K. Gardiner*

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

There were no procedural or administrative matters raised at the hearing.

Property Description:

The property is a 4 building plus gas bar development containing 26,731 square feet (sq. ft.). By agreement with the City, the gas bar is counted as 1 sq. ft. and is included in the above total. The property sits on 3.6 acres of land and is valued on the Income Approach. No assessment summary report was provided by the parties, so no additional description is available.

Issues:

There were a number of issues listed on the complaint form, but at the hearing the Complainant indicated there were two issues in dispute.

1. What is the "best" evidence of the appropriate Capitalization Rate for the subject?
2. What is the best method of valuing the subject? Is it the Income Approach or the Direct Sales Comparison?
 - a. In order to decide this issue it is necessary to determine which method provides the most compelling results.

Complainant's Requested Value:

\$9,040,000

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

1. The Respondent's Capitalization Rate Study provides the best evidence for the capitalization rate.
2. The Income Approach provides the most dependable evidence for the valuation in this complaint.

Board's Decision:

The Complainant introduced a Strip Centre Capitalization Rate study that supported their request for an 8.41% rate rather than the 7.50% rate used by the Respondent/City. The Complainant's study (Ex. C1, pg 28) was virtually identical to the City's Strip Centre Study, except that the Complainant had revised four of the entries in the study (for which they had additional lease information) by calculating a "typical" rental rate based on actual lease rates which either were signed, renewed or came into effect close to the valuation date (in the case of step-up leases). All of the other attributes in their valuation calculations were identical to those used by the City. As a result, their analysis resulted in a mean cap rate from all sales of 7.79%. They also highlighted capitalization rates for properties over 10,000 sq. ft. and between 10,000

– 50,000 sq. ft. Based on the size of the subject (26,731 sq. ft.) they selected the median cap rate for properties between 10,000 – 50,000 sq. ft. at 8.41% and were requesting that the assessment be reduced to \$9,040,000, the value obtained using that rate. They were in agreement with all of the other attributes used by the City in their valuation.

The Complainant also raised the issue of the value per sq. ft. of the subject (the Direct Sales Comparison) by putting forward an analysis of four sales which the Complainant said were comparable to the subject (Ex. C1, pg 88). He noted that the subject value was \$379.08 while the most comparable sale (which was the only one which had a gas bar similar to the subject) was the 20 Douglas Woods Dr. SE property which sales price was \$258.38. The Complainant asked that the subject rate per sq. ft. be reduced to \$258.38 the same as the comparable, for a revised value of \$8,090,000. During the hearing the Complainant revised their request to reflect the Income Approach value of \$9,040,000.

The Respondent commented on the Complainant's cap rate study, noting that the Complainant was not using true typical rents for the four properties they had calculated revisions for, but rather a form of actual rents, which was not a proper method and would not produce a valid cap rate for the sales, so the Complainant's study should be disregarded. They noted that their study (Ex. R1, pg. 25) which supported their rate of 7.50%, also included an analysis of the Assessment to Sales Ratio (ASR) which showed that both the Median and the Average ASR's were .98 using the Respondent's cap rate of 7.50% and .88 using the Complainant's cap rate of 8.41%. They pointed out that the City's ASR was within the mandated quality guidelines (.95 to 1.05) while the Complainant's was significantly outside the range. This, they said demonstrated the validity of the City's cap rate study, and should cast doubt on the reliability of the Complainant's.

With respect to the Complainant's Direct Sales Comparison argument, the Respondent pointed out that the decision by the parties to include the gas bars at a nominal square footage (1 sq. ft.) rendered square foot comparisons very difficult and virtually invalid, because the income attribution to that nominal square footage dramatically skewed the rate per square foot and particularly where the gross sizes of the properties are significantly different.

The CARB considered all of the evidence and argument. The CARB agreed with the Respondent, that the use of "actual" rents for the subject by the Complainant (even though care was taken to select rents close to the time of the sale) in calculating cap rates on the sale was not appropriate methodologically, unless the "actual" rents could be demonstrated to be truly typical. There was little evidence from the Complainant to support their typical rent (i.e. Matters Relating to Assessment and Taxation Regulation Alberta Regulation 220/2004, 2(c) must reflect typical market conditions for properties similar to that property.). As a result, the CARB could not put a great deal of weight on the Complainant's cap rate study.

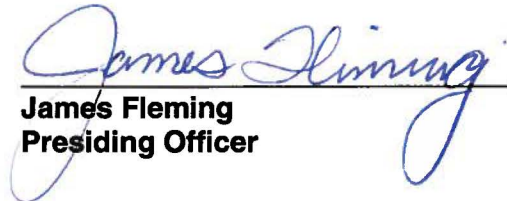
Additionally, the CARB agreed with the Respondent that the ASR's for their sales in the Cap Rate Study provided good support for their values.

In so far as the Direct Sales Comparison argument, the CARB agreed with the Respondent that the complications resulting from the inclusion of a nominal square footage (in this case the rate for the gas bar was \$105,000 per sq. ft.) for the gas bar, compounded by the significant size difference of the properties, rendered the price per sq. ft. analysis of limited value on a comparative basis. Accordingly little weight was placed on this argument.

Board Decision:

The complaint is denied and the assessment is confirmed at \$10,130,000

DATED AT THE CITY OF CALGARY THIS 9 DAY OF August 2011.


James Fleming
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

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.*