

**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:

804485 Alberta 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: 112128202
LOCATION ADDRESS: 7204 Fairmount Dr. SE
HEARING NUMBER: 61164
ASSESSMENT: \$928,000

This complaint was heard on 26th 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, M. Uhryn*

Appeared on behalf of the Respondent:

- *K. Gardiner, R. Farkas*

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

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

Property Description:

The property is a multi tenant retail strip centre comprised of 4,400 square feet (sq. ft.) on .30 acres of land. The property is of a B quality, built in 1962 and has a land use designation of Commercial – Neighbourhood 2. The property has corner lot and traffic collector influences. It was valued on the Income Approach (IAV)

Issues:

There were a number of issues listed on the complaint form, but at the hearing the Complainant indicated there were only 2 issues outstanding.

1. What are the best attributes that should be used to value the subject on the IAV?
 - a. In order to decide this issue it is necessary to determine;
 - i. the allocation of the tenants by size,
 - ii. the appropriate rental rate for the tenants by size,
 - iii. the appropriate capitalization rate for the subject.
2. What are the best equity comparables for the property?
 - a. In order to decide this issue it is necessary to determine what is the quality of the subject?

Complainant's Requested Value: \$

\$624,000

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

The City's attributes are the better evidence in calculating the Income value.

The properties put forward as equity comparables were not similar to the subject.

Board's Decision:

The Complainant indicated that the Respondent had misallocated the tenants by size by allocating one of the tenants at 1,000 sq. ft. to the 1 – 1000 sq. ft. classification. The Complainant argued that this tenant was close enough in size to be considered in the 1001 – 2500 sq. ft. size.

This same tenant had signed a 5 year lease in August 2009 at 15.00 per sq. ft. and because that tenant should be considered in the 1001 – 2500 sq. ft. classification, and because this was the most recent lease in this category, this lease should be considered "typical" for the property for tenants between 1,000 – 2500 sq. ft.

The Complainant also presented a Capitalization rate study for strip centres 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 32) was virtually identical to the City's Strip Centre Study, except that they 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 all of the factors for the subject, they selected the median cap rate for properties between 10,000 – 50,000 sq. ft. at 8.41%.

After recalculating the income based on their selected "typical" rent (\$15.00 per sq. ft. for the 1000 - 2500 sq. ft. and \$18.00 per sq. ft. for those less than 1000 sq. ft.) they applied their suggested cap rate of 8.41%, and arrived at a value \$769,645. It should be noted that with the exception of the rental rate and the cap rate noted above, all attributes were as used by the City.

They continued their analysis with an equity argument (Ex. C1 pg. 96) highlighting 5 properties in reasonable proximity to the subject with assessment per sq. ft. of \$112.44 to \$167.10 pointing out that all of these were "C" or "C+" quality as opposed to the subject which they suggested was mis-qualified as a "B" quality. The average assessment per sq. ft. of the suggested comparables was \$140.17 versus the subject which was assessed at \$207.32. The Complainant provided pictures of some of the Comparables (as well as Assessment Summary Reports) asserting their comparability in location, types of tenants and age, with some being newer than the subject. They argued that the subject was comparable to these centres, and so should receive an equitable assessment of \$140.17 per sq. ft. for a revised assessment of \$624,000.

The Respondent pointed out that the tenant the Complainant wanted reclassified was actually in the right classification at 1,000 sq. ft. They acknowledged that the square footage was close to the break point, but indicated that the City had to draw the line somewhere. They further indicated that the argument was moot because the "typical" rate for the larger tenants (1001 – 2500 sq. ft.) from their analysis of the market was identical to the smaller tenants. They could not consider actual rents as typical without strong support.

With respect to the Complainant's cap rate study, they noted 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. 27) 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.

The Respondent acknowledged the proximity of the Complainant's properties in the Equity analysis, but indicated they were not comparable. The smallest suggested comparable was

twice the size of the subject, and the largest was almost 6 times the size. It emerged from the questioning that some had office space included in the property. Most importantly, the Respondent advised that the quality classification was almost entirely based on the property's ability to generate income. Therefore the "B" quality of the subject resulted from the fact that it was able to generate higher rates than the properties cited by the Complainant, and this was the primary reason why these properties were not comparable.

All of these reasons led the Respondent to ask for confirmation of the assessment.

The CARB considered all of the evidence and argument. First with respect to the classification. The CARB accepts that the City must have some "rules" under a mass appraisal system and can support this classification system unless there is a good argument for a different treatment. Being close to the breakpoint in this complaint was not a sufficient argument in the opinion of the CARB. In fact, the CARB notes that retaining the "rule based" classification actually supports the City's "typical" rent of \$18.00 per sq. ft. in each size category.

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 sales was not appropriate methodologically, unless the "actual" rents could be demonstrated to be truly typical. There was little evidence from the Complainant to support that their rents were "typical" (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.). So, the CARB could not put a great deal of weight on the Complainant's cap rate study.


As a result, the CARB confirms the income attributes used by the City.

With respect to the Equity arguments, in an Equity argument the similarity of the properties being compared is critical. The CARB does acknowledge that the properties are in reasonable proximity to the subject. In the absence of any evidence to the contrary from the Complainant however, the CARB accepts the City's submission that the quality designation is exclusively linked to the level of rent that the property can obtain and that the quality is important in establishing comparability. This fact along with the other issues of size and use convince the CARB that the property is not comparable with the Complainant's suggested comparables. The CARB did not find enough compelling evidence from the complainant to find them comparable.

Board's Decision:

The Complaint is denied and the Assessment is confirmed at \$928,000.

DATED AT THE CITY OF CALGARY THIS 8 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.*