

**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:**

***Marblehead Equities 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:

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<b>ROLL NUMBER:</b>	<b>156001406</b>
<b>LOCATION ADDRESS:</b>	<b>15016 Bannister Rd. SE</b>
<b>HEARING NUMBER:</b>	<b>62282</b>
<b>ASSESSMENT:</b>	<b>\$2,150,000</b>

This complaint was heard on 28th 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:

- *M. Uhryn*

Appeared on behalf of the Respondent:

- *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 automotive centre containing 14,400 square feet (sq. ft.) (which includes 977 sq. ft. of storage) located on .99 acres of land just off McLeod Trail in SE Calgary. The property has a land use designation of Commercial - Corridor 3 and has influences for Shape Factor and Traffic Collector, neither of which contribute an adjustment to the value. The property is designated as "C" quality and is valued on the Income Approach to Value (IAV).

**Issues:**

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

What is the appropriate Capitalization Rate (cap rate) for the subject? Is it the 7.50% used by the Respondent or the 8.25% requested by the Complainant?

In order to decide this matter it is also necessary to determine the classification of the property; is it a Free Standing Retail (FSR) property, or is it a Strip Centre?

**Complainant's Requested Value:**

The initial request was for \$1,950,000, but this was amended in the hearing to \$2,000,000

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

The property should be classed as a Strip Centre.

The Respondent's Strip Centre Capitalization Rate (7.50%) is the appropriate cap rate.

**Board's Decision:**

The Complainant introduced the property as an Automotive strip centre. There was 13,423 sq. ft. of auto mechanical repair space and 977 sq. ft. of storage. The assessment was based on rental rates of \$14.00 for the former space and \$2.00 for the latter and these rates were acceptable to the Complainant. The other attributes in the valuation were also as agreed with the City (9.00% Vacancy, \$7.00 Operating Costs and 1.00% Non-recoverables). The only matter initially in dispute was the Cap Rate. The Complainant requested 8.25% while the Respondent was requesting 7.50%. During the hearing it emerged that the attributes aside from the rental rate, were actually the attributes for FSR which was the classification used by the City/Respondent. The Complainant acknowledged this error, and amended the request to reflect Strip Centre attributes (7.75% Vacancy, \$8.00 Occupancy Costs, and 1% non-recoverables) which produced a revised request of \$2,000,000 at the 8.25% cap rate.

To support the cap rate request the Complainant entered a Study which contained all of the same properties (14) as were contained in the City's Strip Centre Cap Rate Study. The only difference between the two was that the Complainant had revised 4 of the entries (Index numbers 1,5,10,12) by recalculating the "typical" rents at the time of sale based on "actual" rents in the specific properties which were either negotiated, renewed or stepped up in close proximity (but still prior) to the date of sale (see Ex C1. Pgs 22 & 25 to demonstrate the impact of the change). The information for these changes came because Colliers had knowledge of the rent rolls for the 4 properties in question. The overall median and means for cap rates went from 7.48% and 7.47% in the City Study to 7.91% and 7.79% in the Complainant's study

After making these adjustments to the rents, and recalculating the cap rates for these 4 properties, the Complainant analyzed the Study and determined that the Median and Mean cap rates for the 12 properties greater than 10,000 sq. ft. (which were a similar size to the subject at 14,400 sq. ft.) was 8.21% and 8.24%. This was the basis for his request for a cap rate of 8.25% and a value of \$2,000,000.

The Respondent advised that the property was classed as a FSR based in large part on the owners failure to complete an Annual Request for Information (ARFI) since 2008 to provide details of the leasing in the subject. The City indicated that based on their review of the photos, there were only 3 tenants in the building, and so this would qualify the property as FSR. Having said this, the City advised that they would be willing to consider this a strip centre based on its size, configuration and the fact that a close review of the photos might support that there were at least 4 tenants in the property which would result in the centre meeting the qualifications for inclusion in the strip centre classification. If the centre were to be assessed as a strip centre, then the Respondent would support the use of strip centre attributes.

The Respondent disagreed with the 8.25% cap rate noting that the use of "actual" rents in calculating cap rates at the time of sale was mixing data sources and calculations would result in a flawed outcome. Accordingly, he highlighted the strength of the City's Strip Centre Cap Rate study and asked that the CARB confirm the assessment.

The CARB considered all the evidence and argument. The CARB is reasonably satisfied that there are more than 3 tenants in the property. More compellingly, the agreement of the City is suitable to confirm that the property should be classed as a strip centre. Accordingly, the attributes of a strip centre should be applied to the subject as was acknowledged by the Complainant in amending his request to \$2,000,000.

With respect to the cap rate, the CARB agrees with the Respondent that the use of "actual" rents from the subject is not a valid basis for determining typical rents for assessment purposes without some evidence that these rents are indeed typical of market conditions for similar properties in the area. The Complainant provided little evidence to support their "typical" rent.

#### **Boards Decision:**

The appeal is denied and the assessment is confirmed at \$ 2,150,000.

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:**

<b>NO.</b>	<b>ITEM</b>
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.*