

**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:**

***Albert Bell Management Services Ltd.  
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***J. Fleming, PRESIDING OFFICER  
B. Jerchel, MEMBER  
R. Roy, 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>730063203</b>
<b>LOCATION ADDRESS:</b>	<b>8 McKenzie Towne Ave. SE</b>
<b>HEARING NUMBER:</b>	<b>62878</b>
<b>ASSESSMENT:</b>	<b>\$2,080,000</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 contains one building of 3,920 square feet (sq. ft.) and a gas bar which by agreement between the parties is listed as a nominal "1" sq. ft. The site contains 48,224 sq. ft. and the land use classification is Community Shopping Centre. The property is valued on the Income Approach (IAV). The building contains a Mac's Convenience Store and a coffee shop. Despite the fact that each user has a separate entrance, the building is coded as having one tenant at 3,920 sq. ft. Neither party had definitive information, but one suggestion was that one lessee was operating two businesses on the property.

**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.

1. What should the Capitalization Rate be for the property: 8.25% as proposed by the Complainant or 7.25% as used by the Respondent.

In order to decide the issue it is necessary to determine the correct classification for the subject: is it a free standing retail (FSR) development or is it a Community Shopping Centre (CSC)?

**Complainant's Requested Value:**

\$1,820,000

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

The property is part of a Community Shopping Centre.

The Capitalization Rate for Community Shopping Centres developed by the City is the most appropriate rate to be used.

**Board's Decision & Reasons:**

The Complainant provided information from the City's Website to substantiate their claim that the property was in fact a FSR building. They cited that "a retail freestanding property is typically retail stores not located in a planned shopping centre..... It can be contiguous to its neighbours however one should be able to visually identify the different buildings. " (Ex. C1 pg 15). The Complainant pointed out that the property was located on a separate title, and in their opinion met all the requirements for classification as a FSR building.

Based on the classification as FSR, the Complainant provided their FSR Capitalization Rate Study (Ex. C1, pg 20) which showed median rates of 8.30% (for all properties) and 8.74% (for

properties less than 20,000 sq. ft.). Based on this information, the complainant had selected a conservative 8.25% which yielded a request for an assessment of \$1,820,000.

The Respondent countered that the property was a component of a community shopping centre because it was visually associated with the neighbouring Sobeys store (representing that there was shared parking with Sobeys), and there were also a variety of retail outlets across McKenzie Towne Ave. SE. Because of this the Respondent argued the subject was "located in a planned shopping centre" (see the citation for the City's Website in the Complainant's comments above). The Respondent went on to demonstrate the scope of the shopping centre with retail outlets forming the predominant land use for all neighbouring properties.

The Respondent asserted that this proved that the subject was part of a planned shopping centre and therefore rightfully received a classification of Community Shopping Centre, and the resulting capitalization rate of 7.25% as set out on page 30 of the Complainant's brief. Accordingly they requested confirmation of the Assessment.

The CARB reviewed all of the evidence and argument. They recognized that the property would qualify as a FSR if it were not located in a planned shopping centre. They were also mindful of the part of the classification discussion concerning FSR that the property could be contiguous to its neighbours however one should be able to visually identify the different buildings and yet still maintain the FSR classification.

In the final analysis, the CARB concluded that it was a case of which argument best fit the situation, and in this case the CARB concluded that the property was part of a planned shopping centre as evidenced by the breadth and number of retail outlets in close proximity. The CARB notes that the classification discussion did not mention ownership of individual parcels in the description of the different classifications and the CARB is aware of situations in Power Centres where there are many separate owners of individual properties and these are classified as Power Centres. The CARB could not recall any examples of this situation in Community Centres, but the logic seemed sensible, and the Complainant did not provide any evidence where single properties in a cluster of retail outlets were assessed as FSR's which might have been compelling.

Once the determination is made that the property is part of a Community Shopping Centre, the Community Shopping Centre cap rate is the appropriate number and the CARB did not hear any evidence from the Complainant that the Community Shopping Centre rate was in error.

**Board's Decision:**

The appeal is denied and the assessment is confirmed at \$2,080,000

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:**

<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.*