

**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(4), Revised Statutes of Alberta 2000 (the Act).

**between:**

***Berdaland Canyon Limited, COMPLAINANT,  
as represented by Colliers International Valuation & Advisory Services***

**and**

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

**before:**

***T. Helgeson, PRESIDING OFFICER  
D. Steele, MEMBER  
E. Reuther, 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: 142077908**

**LOCATION ADDRESS: 11625 Elbow Drive S.W.**

**HEARING NUMBER: 61393**

**ASSESSMENT: \$13,520,000**

This complaint was heard on Thursday, the 4<sup>th</sup> of August, 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. Ford*

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

No procedural or jurisdictional matters were raised.

**Property Description:**

The subject property is a shopping centre on Elbow Drive SW in the community of Canyon Meadows. Assessed as a neighbourhood shopping centre, the leasable area is 75,228 sq. ft., with retail space on the main floor and office space above.

**Issues:**

Have the net operating income ("NOI") and the capitalization rate ("cap rate") used in the assessment of the subject property resulted in an incorrect assessment?

**Complainant's Requested Value:** \$12,490,000.

**Summary of the Complainant's Submission**

Sales of properties comparable to the subject property that support an appropriate cap rate have been analyzed and normalized to demonstrate that the Respondent has used an incorrect income parameter in calculating the assessment. The sale prices and NOI's of four comparable properties, i.e., 1725 32<sup>nd</sup> Avenue NE, 5220 5010 4<sup>th</sup> Street NE, 920 36<sup>th</sup> Street NE, and 11440 Braeside Drive SW indicate higher NOI's than those of the Respondent, and therefore justify a higher cap rate, in this case 8.0%.

**Summary of the Respondent's Submission**

The four comparables in the Complainant's submission are commercial strip malls, not neighbourhood shopping centres. Neighbourhood shopping centres are designed to provide convenience shopping for the day-to-day needs of the immediate neighbourhood, and usually have an anchor tenant such as a supermarket, drugstore, or junior big box store. Typical gross leasable area ranges from 30,000 to 150,000 sq. ft. The subject property meets these criteria: it has a Rexall Drugstore, a leasable area within the accepted range, and serves the surrounding

area. There are differences between neighbourhood and community shopping centres, but there are insufficient sales data to differentiate between the two.

Eight comparable properties, all neighbourhood or community shopping centres, indicate that the cap rate averages 7.10% when based on typical NOI's, and 7.02% when based on actual NOI's. The cap rate used in the assessment of the subject property and other neighbourhood shopping centres is 7.25%. If the Complainant's suggested cap rate of 8.0% percent were used to value the Complainant's four strip mall "comparables," the average assessment-to-sales ratio (ASR) would be .90, less than the lower limit of the median assessment ratio stipulated in AR220/2004, the *Matters Relating to Assessment and Taxation Regulation*. The Complainant's own "CANADA: CAP RATE REPORT" for 2010, shows cap rates from 6.75% to 7.50% for community shopping centres. Our cap rate of 7.25% for community shopping centres is at the high end of that range.

### **Summary of the Complainant's Rebuttal**

The Respondent has altered the definition of neighbourhood shopping centres to suit its purposes. The Respondent has ignored the differences between neighbourhood shopping centre and community shopping centres. The Respondent's cap rate study to develop the typical cap rate for neighbourhood shopping centres included community shopping centres. There is a difference between the two, as shown in pages 24 to 26 in the Respondent's assessment brief. Furthermore, the Respondent has included portfolio sales within its cap rate study. If portfolio sales are removed from the Respondent's comparables, i.e., 1221 Canyon Meadows Drive SE and Quarry Park Boulevard SE, the median of the Respondent's "typical" cap rates becomes 7.92%, and the average, 7.55%. That supports a cap rate of 8.0% and an assessed value of \$12,490,000 based on a net income of \$999,866.

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

The Board accepts the Respondent's evidence that the subject property is a neighbourhood shopping centre. The Respondent informed the Board that the Complainant's four comparables are strip shopping centres, not neighbourhood or community shopping centres. The photographs of the comparables in the Complainant's material support this because they depict what appear to be strip shopping centres, and there is little else in the Complainant's evidence to indicate that the comparables are anything other than strip shopping centres. In the result, the Board concluded that the four comparables are in fact strip shopping centres, hence not comparable to the subject property.

As noted by the Respondent, the Complainant's CANADA: CAP RATE REPORT for 2010 indicates cap rates from 6.75% to 7.25% for neighbourhood shopping centres in Calgary. Although the Complainant pointed out the disclaimer clause in the report, i.e., *Collier's International makes no guarantees, representations or warranties of any kind, express or implied, regarding the information including, but not limited to, warranties of content, accuracy and reliability*, the Board does not doubt that extensive research went into the report, and that it was intended to provide useful information to interested parties. Clearly, the report supports the Respondent's cap rate of 7.25%. In the view of the Board, the Respondent has amply justified its cap rate. With respect to the Complainant's removal of two properties from the Respondent's capitalization rate study on grounds that their sales were "portfolio" sales, i.e., non-arms length,

the Complainant provided no supporting evidence of the nature of the relationship between vendor and purchaser.

**Board's Decision:** The assessment is confirmed at \$13,520,000.

DATED AT THE CITY OF CALGARY THIS 12<sup>th</sup> DAY OF September 2011.

  
T. Helgeson  
Presiding Officer

**Exhibits**

**C-1, Complainant's submission**

**R-1, Respondent's Assessment Brief**

**C-2, Complainant's Rebuttal**

*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.*