

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

**between:**

**1198816 Alberta Ltd.,  
(as represented by Colliers International Realty Advisors Inc. ), COMPLAINANT**

**and**

**The City of Calgary, RESPONDENT**

**before:**

**L. Wood, PRESIDING OFFICER  
B. Bickford, MEMBER  
R. Kodak, 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 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>072225709</b>
<b>LOCATION ADDRESS:</b>	<b>3745 MEMORIAL DR SE</b>
<b>HEARING NUMBER:</b>	<b>65566</b>
<b>ASSESSMENT:</b>	<b>\$3,980,000</b>

This complaint was heard on the 4<sup>th</sup> day of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- Mr. J. Havrilchak                      Agent, Colliers International Realty Advisors Inc.

Appeared on behalf of the Respondent:

- Mr. T. Luchak                      Assessor, City of Calgary

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

[1] There were no procedural or jurisdictional matters raised by the parties during the course of the hearing.

**Property Description:**

[2] The subject property is a retail strip mall in Forest Heights, commonly known as the Saly Centre. There are two buildings located on the 61,141 sq. ft. parcel. The subject property has a mix of commercial retail space and a PAD site (as set out below) and was assessed based on the Income Approach to value:

Sub Component	Area (sq. ft.)	Market Net Rental Rate
CRU 0 - 1,000	3,622	\$20.00
CRU 1,001 – 2,500	7,487	\$19.00
CRU 2,501 – 6,000	5,496	\$17.00
PAD 1,001 – 2,500	1,495	\$19.00

[3] The Complainant was in agreement with the income parameters used to value the subject property with the exception of the market net rental rate of \$17.00 psf which was applied to the (larger) restaurant space (as highlighted).

**Issues:**

[4] The assessed rental rate applied to the restaurant space (5,496 sq. ft.) should be reduced from \$17.00 to \$12.00 psf.

**Complainant's Requested Value:**

[5] The Complainant requested an assessment of \$3,640,000 for the subject property.

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

[6] The Complainant submitted the subject property's restaurant space of 5,496 sq. ft. cannot achieve a rental rate higher than \$12.00 psf. The subject property has suffered a constant turnover in tenants as it is located in a high crime area. One of its past tenants was a bar, formerly known as the Static Ultra Lounge, which had a notorious reputation for attracting

criminal activity and was consequently shut down (Exhibit C1 pages 80 – 88).

[7] The Complainant submitted a current lease for the 5,496 sq. ft. of space dated April 19, 2010 which indicates a lease rate of \$12.00 psf (Exhibit C1 pages 20 – 78). The Complainant also included the Letter of Intent to Lease the premises at \$14.00 psf in April 2009 between the same affected parties but that lease agreement failed to materialize (Exhibit C1 pages 13 & 14). The Complainant argued that the subject lease is the best indication of market value and supports a reduction from \$17.00 psf to \$12.00 psf for that space.

[8] The Respondent submitted the 5,496 sq. ft. of restaurant space was assessed with a \$17.00 psf based on typical market rents. The Respondent submitted five lease comparables of areas between 2,551 – 3,915 sq. ft. and rates of \$16.60 - \$18.00 psf in support of the \$17.00 psf rate (Exhibit R1 page 9). The leases had commenced in April 2009 – July 2010. There was no leasing activity available for 2011.

[9] The Respondent argued, based on the leases that he presented, the \$17.00 psf rate applied to the subject property is not unreasonable. He argued that the Complainant wants the Board to accept an actual lease rate from the subject property to derive this assessment, which is more reflective of a site specific valuation. Moreover he questioned the reliability of the 2010 lease presented by the Complainant which was not signed by the (affected) parties.

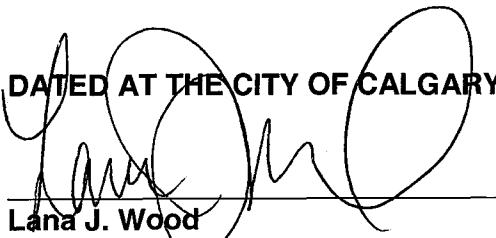
[10] The Board finds the Complainant failed to present sufficient evidence to warrant a change to the subject property's assessment. Although the Board finds the Complainant's request of \$12.00 psf for this space reasonable, especially given the fact that the previous (2009) lease agreement of \$14.00 psf failed to materialize, the Complainant failed to prove that the overall assessed value for the subject property is incorrect. Upon reviewing the Rent Roll for the subject property, the Board notes the income generated by the subject property is greater than its assessed income without a reduction to that space (Exhibit C1 pages 10 & 12). Moreover the Complainant indicated that he was in agreement with the income parameters used to value the subject property including the operating costs and capitalization rate which otherwise could have brought its overall assessed value into question.

[11] Notwithstanding, the Board placed little weight on the Respondent's five lease comparables to support the \$17.00 psf rate because of their superior location in comparison to the subject property's location. However, the onus is on the Complainant to prove the assessment is incorrect, and in this instance, he failed to do so.

**Board's Decision:**

[12] The decision of the Board is to confirm the 2012 assessment for the subject property at \$3,980,000.

DATED AT THE CITY OF CALGARY THIS 26<sup>th</sup> DAY OF Oct 2012.

  
Lana J. Wood  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Evidence
2. R1	Respondent's Evidence

*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.*

**FOR ADMINISTRATIVE USE**

Subject	Property Type	Property Sub -Type	Issue	Sub - Issue
CARB	Retail	Strip Plaza	Income Approach	Net Market Rents/ Lease Rates