

**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:

***MCDONALD'S RESTAURANTS OF CANADA LIMITED, COMPLAINANT,
as represented by COLLIERS INTERNATIONAL REALTY ADVISORS INC.***

and

The City Of Calgary, RESPONDENT

before:

***T. Helgeson, PRESIDING OFFICER
H. Ang, MEMBER
E. Bruton, 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:

ROLL NUMBER: 054014006

LOCATION ADDRESS: 3660 12th Avenue NE

HEARING NUMBER: 68333

ASSESSMENT: \$2,520,000

This complaint was heard on Thursday, the 27th of September, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *T. Howell*

Appeared on behalf of the Respondent:

- *C. Yee and D. Clark*

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

[1] No procedural or jurisdictional matters were brought to the attention of the Board.

Property Description:

[2] The subject property is located at the corner of 12th Avenue and 36th Street NE on a site some 43,380 sq. ft. in area. There is only one building on the site, a McDonald's restaurant. Constructed in 1979, the building is classified as an "A-" quality freestanding fast food restaurant. The subject property is assessed based on the income approach to valuation.

Issues:

[3] Does the building on the subject property more closely resemble an "B" class building than an "A" class building?

[4] If it is found that the building on the subject property more closely resembles a "B" class building, what is the appropriate assessed value?

Complainant's Requested Value: \$1,822,269

Summary of the Complainant's Submission

[5] The "A" classification appears arbitrary and unjustified when the criteria in the assessment are examined. The subject property is a free-standing retail property in the vicinity of other retail property. It is not part of a power centre or regional shopping centre, and does not enjoy the advantages of a primary location.

[6] Instead, the subject property's vintage, size, location, and access is consistent with premises assessed as Class "B". The subject has been assessed using rates above and beyond its limitations.

[7] The capitalization rate ("cap rate") relied on by the Respondent was developed without the benefit of recent transactions of freestanding retail properties similar to the subject property. In

the Respondent's assessments, the same cap rate for both strip and freestanding retail properties has been used. In the assessment of the subject property, the Respondent used a cap rate of 7.50%, but the cap rates for strip centre retail properties range from 5.96% to 9.27%.

[8] We have used a modest cap rate of 8.25% that more accurately reflects the market capitalization rate during the relevant time period. Our survey of strip centre sales reveals an average cap rate of 7.93%, and a median cap rate of 8.25%.

[9] We have compared the subject property to seven other McDonald's restaurants, i.e., at 248 Midpark Way SE, 5111 Northland Drive NW, 9311 Macleod Trail SW, 2665 Sunridge Way NE, 20 Riverglen Drive SE, 4545 25 Street SE and B 13780 Bow Bottom Trail SE. All these comparables are assessed as B class buildings, and all but two of them exhibit substantially higher traffic counts than the subject. Clearly, the subject property does not enjoy a superior location.

[10] In sum, we have provided building class types, building ages, traffic counts, and building sizes. The Respondent has given no indication of age in their comparables. Instead, the Respondent relies on speculation, and judgment calls.

[11] All but the McDonald's at 5111 Northland Drive NW have been assessed with rental rates of \$26 per sq. ft. The McDonald's at 5111 Northland Drive NW is assessed at \$23 per sq. ft. The subject property has been assessed at a rental rate of \$33 per sq. ft. We are asking for a rental rate for the restaurant space of \$26 per sq. ft., and a cap rate of 8.25. These adjustments will result in an assessment of \$1,822,269.

Summary of the Respondent's Submission:

[12] The Complainant says the quality classification of the subject property is too high, and should be reclassified as a B class property. No market lease comparables were included in their evidence; their request is based solely on equity comparables.

[13] The Complainant also bases their cap rate argument on their analysis of strip centre cap rates, on grounds that the Respondent uses the same cap rate for freestanding and strip centres. It was purely by chance that the cap rate of 7.50% arose from two separate analyses of sales, one for freestanding properties, the other for strip centres, as shown at pp. 20 and 21 of R-1.

[14] In our evidence, at p. 18 of R-1, are 18 lease comparables, all of similar quality to the subject property. The mean of these leases is \$33.58 per sq. ft., and the median is \$33 per sq. ft. Page 19 of R-1 shows twenty-seven equity comparables, i.e., Class A or A-, eleven of which are McDonald's Restaurants, all assessed at \$33 per sq. ft. As for renovations to the building on the subject property, it is not known if renovations were done, but building permits were taken out in 2011.

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

[15] The Board finds no explanation why a building constructed in 1979 should warrant a classification of "A-", while other, younger buildings are given a "B" classification. Furthermore, there is no explanation why the twenty-seven "equity comparables" shown on p. 19 of Exhibit R-1 are in fact comparable to the subject property.

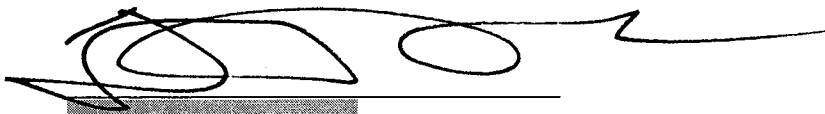
[16] There being no evidence of any renovations to the subject property, the Board finds that given the subject's age, a "B+" classification is more appropriate to the subject property. Accordingly, the Board reduces the rental rate to \$26 per sq. ft. At \$26 per sq. ft., the net operating income ("NOI") becomes \$150,337.

[17] The Board notes that the Complainant's capitalization rate summary at p. 29 of Exhibit C-1 contains four properties said to be strip centres. Not one of these strip centres is located in the northeast quadrant of Calgary, and there is no information that would relate them to the subject property. That said, the Board will rely on the present cap rate of 7.50%. Applying that cap rate to the NOI of 150,337 results in an assessed value of \$2,000,000, as truncated.

The Board's Decision:

[18] The Board hereby reduces the assessment to \$2,000,000.

DATED AT THE CITY OF CALGARY THIS 27th DAY OF November 2012.



Presiding Officer

Exhibits

C-1, Complainant's Evidence Submission.

R-1, Respondent's Assessment Brief

<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Stand Alone	Income Approach	Rental Rate

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.*