

**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:

***AIRSTATE LTD., 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***

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: 071126452

LOCATION ADDRESS: 2840 Memorial Drive SE

HEARING NUMBER: 66083

ASSESSMENT: \$6,200,000

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 Memorial Drive and 28th Street SE. The site is 118,407 sq. ft. in area, and contains two freestanding restaurants. The larger building, of 8,526 sq. ft., is a Swiss Chalet restaurant. The other building, a Boston Pizza, is 6,676 sq. ft. in area. Built in 1978 and 2007, the restaurants are classified as "A2" freestanding restaurants. The subject property has been assessed using the income approach, with a cap rate of 7.50%.

Issue:

[3] Do recent sales support an increase in the capitalization rate from 7.50% to 8.25%?

Complainant's Requested Value: \$5,645,286

Summary of the Complainant's Submission

[4] The Respondent's capitalization rate ("cap rate") was developed without benefit of recent transactions involving retail properties similar to the subject. For assessment purposes, the Respondent has used the same cap rate for both freestanding retail properties, and retail strip centres.

[5] It is submitted that because there were several sales of strip centres during the relevant time period, it is appropriate that we developed our cap rate based on those transactions. The City relied on a cap rate of 7.50%, but based on four current sales, the cap rates of strip centres range from 5.96% to 9.27%. Our summary of these sales is found at p. 13 of Exhibit C-1.

[6] The cap rates for the four sales are 9.27%, 8.48%, 5.96% and 8.00%. The average cap rate is 7.93%, and the median 8.25%. These results support our request for a modest capitalization rate of 8.25%. Applying that cap rate to the net operating income of the subject property will result in the requested assessment of \$5,645,286.

Summary of the Respondent's Submission:

[7] The Complainant claims that the Respondent uses the same cap rate for both freestanding and strip centres in its assessments, hence the Complainant assumes it is at liberty to use their cap rate of 8.25% based on their strip centre cap rate analysis. We have provided two summaries; a separate freestanding cap rate summary, and a separate strip centre cap rate summary. These two summaries show that the cap rate of 7.50% just happens to be the same for both.

[8] The cap rate used in the 2012 assessment is based on our retail freestanding cap rate study, not the retail strip cap rate study. Our freestanding cap rate summary at p. 18 of Exhibit R-1 shows a median cap rate of 7.55%, and a mean of 7.55%, amply supporting the cap rate of 7.50% used in the assessment of the subject property.

[9] Further to this, Colliers' own report, the Q2 Colliers International Canada Cap Rate Report, indicates retail strip cap rates from 6.75% to 7.50%, contradicting the Complainant's requested 8.25% cap rate. The assessment is correct, fair and equitable, and is supported by the evidence. We respectfully request that the Board confirm the assessment.

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

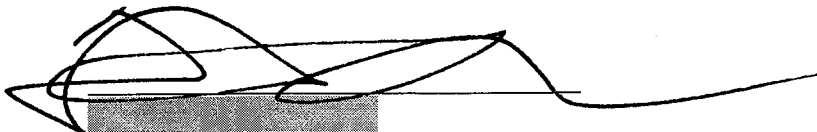
[10] The Board notes that the four strip centre sales on which the Complainant has based its case are included in the Respondent's summary of sixteen sales at p. 19 of R-1. The Board also notes another sale that is included in the Respondent's summary. This sale, registered in Land Titles on July 5th, 2010, is important, because it too falls within a relevant valuation period, i.e., the period from July 1st of 2010 to July 1st of 2011. The cap rate from this sale is 6.08%.

[11] Five relevant sales are preferable to four. When the cap rate from the sale of July 5th, 2010 is added to the cap rates from the Respondent's four sales, the average of the five cap rates becomes 7.56%, a figure which does not support the Complainant's requested cap rate.

The Board's Decision:

[12] The Board finds no evidence to support a cap rate of 8.25%. The assessment is confirmed at \$6,200,000.

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	Cap 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.*