



**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:**

***Chi Lin Leung and Wing Chiu Leung (as represented by Linnell Taylor Assessment Strategies), COMPLAINANT***

**and**

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

**before:**

***R. Fegan, PRESIDING OFFICER  
M. Grace, BOARD MEMBER  
J. Pratt, BOARD 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 2013 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>074000605</b>
<b>LOCATION ADDRESS:</b>	<b>5315 17 AV SE.</b>
<b>FILE NUMBER:</b>	<b>71785</b>
<b>ASSESSMENT:</b>	<b>6,770,000.</b>

This complaint was heard on the 19<sup>th</sup> day of June 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- D. Sheridan (Linnell Taylor Assessment Strategies)
- S. Olin (Blackstone Commercial)

Appeared on behalf of the Respondent:

- I. Pau (City of Calgary)
- S. Turner (City of Calgary)

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

[1] No procedural or jurisdictional matters were raised.

**Property Description:**

[2] The subject property is a retail strip centre located in the community of Forest Lawn. It is 40,651 square feet and has been classified for assessment purposes as a "C+".

**Issues:**

[3] The issue in this complaint is the capitalization rate that has been applied to the subject property. The City have used a cap rate of 6.75% for all retail strip centres across the City. The complainant believes that a 7.25% cap rate should be applied to the subject property in order to reflect the age, condition, vacancy and location of the subject. The complainant argued that the use of one city wide capitalization rate for all retail strip shopping centres is not appropriate and places an unfair burden on those properties that are at the lower end of the classification system (C+) or are located in areas that experience lower demand for retail space.

**Complainant's Requested Value: \$6,300,000.**

**Board's Decision:**

[4] **The complaint is allowed and the assessment is set at \$6,300,000.**

**Positions of the Parties:**

**Complainant's Position:**

[5] The complainant provided a capitalization rate analysis based on the sale of 7 retail properties that took place in 2011 and 2012. All but one of these sales had classifications that were higher than the subject property.

[6] The respondent's capitalization rate analysis included thirteen sales taken from 2010, 2011 and 2012. The range of capitalization rates produced by this analysis ranged from a low of 4.28% to a high of 9.27%. The complainant argued that this range is too high and can be explained by the fact that the City's analysis included both superior and inferior properties in the same analysis. Those sales that the complainant felt were superior to the subject were the

three on Macleod Trail and the one sale in Cranston. This theory was supported by the wide range of market rents used by the City to calculate the capitalization rate. Market rents for the same size space ranged from \$12.00 to \$32.00 indicating a significant difference between those properties that were included in the City's analysis.

[7] In rebuttal to the City's capitalization rate analysis the complainant pointed to four sales in the City's analysis that he believed were the most similar to the subject in terms of age, condition, and location. The average cap rate produced from these sales was 7.24%.

**Respondent's Position:**

[8] The respondent's capitalization rate analysis included thirteen sales taken from 2010, 2011 and 2012. The range of capitalization rates produced by this analysis ranged from a low of 4.28% to a high of 9.27%.

[9] With respect to the complainant's cap rate study the respondent pointed out that for those sales that occurred in 2011 the complainant had used the incorrect net operating income in the calculation of the rate. The respondent also pointed out that some of the sales used were not retail strip centres and one was located in close proximity to the downtown core.

**Board's Reasons for Decision:**


[10] The Board agreed with the complainant that for a capitalization rate analysis to be effective the properties from which the cap rate is derived must be physically and economically similar to the properties to which the cap rate is going to be applied.

[11] The Board noted that the properties used in the City's cap rate analysis were located in each quadrant of the City and ranged in size from 2,834 to 39,480 square feet. The size range used by the respondent did not bracket the size of the subject property.

[12] The vacancy rates used for various spaces in the cap rate analysis ranged from 3.5% to 10.0%. The actual vacancy rate in the subject is 27% and while the Board is not advocating the use of actual vacancy rates the Board took this actual vacancy rate as an indication that demand for space in the subject property was not as high as it was for space in the majority of properties used in the cap rate study. The market rents used for the various space types in the cap rate study were for the most part, significantly higher than the market rents applied to the subject property. The Board did not accept the respondent's argument that application of lower rents alone was sufficient to account for the physical, locational and economic differences between the subject property and those properties used in the respondent's cap rate analysis.

The Board agreed that the four sales from the City's analysis, that were identified in the Complainant's rebuttal were the most appropriate comparable sales for establishing a cap rate for the subject property.

DATED AT THE CITY OF CALGARY THIS 18<sup>th</sup> DAY OF July 2013.

  
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R. Fegan  
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. R2	Respondent Disclosure
3. C2	Complainant 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.*