

## **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:

***Lazy R/H Ranch Ltd. (as represented by Colliers International Realty Advisors Inc.)***  
**COMPLAINANT**

and

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

before:

***K. Thompson, Board Chair***  
***E. Reuther, MEMBER***  
***T. Livermore, 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:

**ROLL NUMBER:** 067205005  
**LOCATION ADDRESS:** 1230 17 Av SW  
**FILE NUMBER:** 73783  
**ASSESSMENT:** \$3,550,000

Appeared on behalf of the Complainant:

- Appeared on behalf of the Respondent:

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

### Property Description:

**Issues:**

**Complainant's Requested Value: \$2,550,000**

[5] Assessment confirmed at \$3,550,000

**Position of the Parties****Complainant's Position:****Issue 1 – Capitalization Rate**

[6] The Complainant submitted a calculation for its requested value basing it on rental numbers worked backwards from the City's information. It stated that it had not received the City's information on the actual property value calculation in time to meet its legislated deadlines for evidence submission.

[7] The Complainant submitted that the capitalization rate for B Class properties in the Beltline area should be 7.50%. Four sales were provided [pgs. 14-22, C-1] to support this position along with RealNet information as supporting documents. Two of the sales were B Class properties.

[8] The capitalization rates were derived using the City's net operating income (NOI) figures and resulted in capitalization rates between 4.77% - 7.51% [pg7, C-1]. The 2010 sale of 1328 17 Ave SW was purported to be the best comparable having a calculated capitalization rate of 7.51%, supporting the Complainant's request of a 7.50% rate. This property is located one block from the subject property. The Complainant stated that the second B Class property in the capitalization study, the El Sombrero, was missing square footage so the derived rate of 4.77% was an outlier and shouldn't be considered.

[9] The Complainant argued that capitalization rates should be hierarchical (A Class being lower than B Class) and provided 2001 Municipal Government Board Order 140/01 to support this position. The A Class property, Mount Royal Village, in the Complainant's capitalization rate study, had a rate of 6.63%. The fourth sale was an AA Class building, the Sasso/Vetro located on 14<sup>th</sup> Ave and 1<sup>st</sup> St. SE, with a capitalization rate of 5.81%.

**Issue 2 – Rental Rates**

[10] The Complainant stated that the rental rate of \$12/sq. ft. was more appropriate for the office portion of this building and \$30/sq. ft. for the restaurant. This was based on actual rents from the property. Further the Complainant argued that the office portion of the subject building is really more typical of a C Class office space and this would further support the request for a change in rental rates. Pictures of the subject property and a photograph of the 2013 rent roll were provided.

[11] In rebuttal evidence the Complainant presented documents to support its contention that the sale of 520 17 Av SW, a sale that was used in the capitalization rate study, had an influenced partner. The vendor is also the owner of a restaurant that is a tenant in the property.

[12] An explanation of the calculations for Mount Royal Village was also submitted in the rebuttal.

**Respondent's Position:****Issue 1 – Capitalization Rate**

[13] The 2013 Capitalization Rate Summary was presented by the Respondent for the Beltline retail containing three sales (pg. 88, R-1), two of which were in the B Class, the same

as the subject property. The Respondent provided the Beltline rent rates and analysis and all lease documents to support the typical NOI's used in the 2013 Capitalization Rate Study. The Respondent disputed the 2010 sale the Complainant stated was the most similar to the subject property, being of 1328 17th Av SW, on the basis that it was non-arm's length as there was a buy-back option in favour of the sole tenant, which party had sold this property to the current owner in 2005. This sale was not used in the City's Capitalization Rate Study.

[14] All supporting documentation was submitted into evidence including Assessment Summaries, RealNet, Land Titles documents, Corporate Searches and the City's returned Sales Questionnaires, where applicable.

## Issue 2 – Rent Rates

[15] The 2013 Beltline Rental Rate Analysis was presented which contained rent from all current leases for space in properties similar to the subject property. A map with the locations of these properties was also presented.

[16] The Respondent stated that the City was required under applicable legislation to determine typical rents using mass appraisal in order to value similar types of properties and that is what it has done.

The Respondent refuted the claim made by the Complainant that requested property information for the subject was not produced. The Respondent stated that a review of the Customer Service records did not show any request made by the Complainant, written or verbal, as being on record for this property.

## Board's Reasons for Decision:


[17] The Board did not find sufficient, relevant and compelling evidence or argument to cause it to alter the assessed value of this property.

[18] The Complainant only produced one relevant comparable sale to persuade the Board that the capitalization rate was not correct and provided sparse 2013 rental information from only the subject property for the rent rate argument.

[19] The Board was not able to reconcile some of the evidence provided by the Complainant. Initial calculations in its request contained incorrect assessment information which caused the Board concern about the validity of the information and difficulty in reviewing the case. The Board does not accept that there was insufficient time for the Complainant to obtain the correct information from the City, nor did it see any proof that the information was asked for and not provided.

[20] The assessment is confirmed at \$3,550,000.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF August 2013.

  
K. Thompson

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. C2	Complainant Rebuttal
3. R1	Respondent Disclosure

*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.*

Appeal Type	Property Type	Property Sub-Type	Issue	Sub issue
CARB	Office	High rise	Income Approach	Capitalization rate
				Rental rate