

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:

P.B.L. Machinery Ltd.

(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

T. Livermore, BOARD MEMBER

R. Kodak, 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 2014 Assessment Roll as follows:

ROLL NUMBER:	014102800
LOCATION ADDRESS:	34 EDGEDALE DR NW
FILE NUMBER:	76730
ASSESSMENT:	\$6,580,000

This complaint was heard on the 5th day of August, 2014 in Boardroom 6 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- T. Howell (Colliers International Realty Advisors Inc.)

Appeared on behalf of the Respondent:

- G. Jones (City of Calgary)
- K. Ivinac (City of Calgary)

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

- [1] There were no concerns with the Composite Assessment Review Board (CARB) as constituted.
- [2] The Complainant has visited the site, while the Respondent has not.
- [3] The parties have not discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.
- [5] The parties agreed to carry forward all argument and discussion with respect to "The Misuse of Actual and Typical Parameters" and "The Incorrect Application of Post-Facto Sales" from Hearing 76812.

Property Description:

- [6] The subject property is a 1.01 acre parcel located in the Edgemont community in NW Calgary. The site is improved with a Retail/Strip Shopping Centre that contains 18,119 square feet (sf) of rentable area. The improvement was constructed in 1980 and is classified B+ quality.
- [7] For the 2014 tax year the subject property was assessed using the Income Approach to Value. Typical rent applied was \$25.00 per square foot (psf) for CRU space 0-1,000 sf, \$26.00 psf for CRU space 1,001-2,500 sf and \$23.00 psf for CRU space 2,501-6,000 sf. Typical vacancy allowances and non-recoverable operating expenses were deducted. The resulting net operating income (NOI) was capitalized at a rate of 6.25% to arrive at an assessed value which was truncated to \$6,580,000.

Issues:

- [8] An assessment amount was identified on the Assessment Review Board Complaint Form as the matter that applies to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely; capitalization (cap) rate.

Complainant's Requested Value: \$5,724,600 (Complaint Form)
\$5,880,000 (Hearing)

CARB's Decision:

- [9] The 2014 assessment is confirmed at \$6,580,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Act, Section 460.1:

- (2) *Subject to section 460.1(1), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).*

The Act requires that:

293(1) *In preparing an assessment, the assessor must, in a fair and equitable manner,*

- (a) *apply the valuation and other standards set out in the regulations, and*
- (b) *follow the procedures set out in the regulations.*

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

2 *An assessment of property based on market value*

- (a) *must be prepared using mass appraisal,*
- (b) *must be an estimate of the value of the fee simple estate in the property,*
and
- (c) *must reflect typical market conditions for properties similar to that property.*

4(1) *The valuation standard for a parcel of land is*

- (a) *market value, or*
- (b) *if the parcel is used for farming operations, agricultural use value*

CARB's Decision in Respect of Each Matter or Issue

Issue: What is the typical cap rate to be utilized in the Income Approach to Value for determining the market value, for assessment purposes?

Complainant's Position:

[10] The Complainant's Disclosure is labelled C-1.

[11] The Complainant submitted that the Respondent's methodology for determining a cap rate for use in the Income Approach to Value is flawed in that it has applied "typical" parameters against "actual" sales to achieve a "typical" cap rate and further that it is applying the wrong parameters in its analysis. The subject property is assessed using a 6.25% cap rate while the Complainant requested a 7.00% cap rate.

[12] The Complainant, on pages 16 through 39, provided the following decisions: CARB 1302/2011-P, CARB 1340/2011-P, CARB 1036/2012-P and CARB 70999P-2013, which address the need for the use of consistent methodology when calculating a market value using the Income Approach. The Complainant argued that these previous decisions support its methodology.

[13] The Complainant, on page 110, provided a table titled 2013 Strip Centre Capitalization Rate Summary, as prepared by the City of Calgary. The Complainant noted that the Sale Year Assessed NOI for the sale of 90 Cranleigh DR SE was \$254,685 and the Sale Year Assessed NOI for the sale of 805 & 831 Edmonton Trail NE was \$222,498.

[14] The Complainant, on page 111, provided a table titled 2014 Strip Centre Capitalization Rate Study, as prepared by the City of Calgary. The Complainant noted that the Sale Year Assessed NOI for the sale of 90 Cranleigh DR SE was \$252,801 and the Sale Year Assessed NOI for the sale of 805 & 831 Edmonton TR NE was \$216,703. The Complainant noted both values differed from the previous year.

[15] The Complainant, on page 154, provided a table titled Colliers Capitalization Rate Analysis. The table contains the details of five sales that occurred in the period March 4, 2011 to April 30, 2012. The table contains a cap rate for each sale that had been extracted from the RealNet or Commercial Edge Transaction Summary for that sale. The cap rates ranged from 6.50% to 8.50%, with a mean cap rate of 7.09% and a median cap rate of 6.86%. The Complainant requested that a cap rate of 7.00% be applied to the subject assessment.

Respondent's Position:

[16] The Respondent's Disclosure is labelled R-1.

[17] The Respondent submitted that the Complainant's Capitalization Rate Study includes three sales used by the Respondent in its Capitalization Rate Study, as well as two additional sales. In addition five sales used by the Respondent in its Capitalization Rate Study have been excluded from the Complainant's Capitalization Rate Study. Further, the Complainant's study relies on RealNet information for the cap rates while the Respondent relies on lease analyses to determine typical rental rates and therefore typical NOI for the cap rates.

[18] The Respondent, on page 23, provided definitions for the different types of shopping centres, specifically: Regional Centre, Power Centre, Community Centre, Neighbourhood Centre, Strip Centre and Retail Freestanding.

[19] The Respondent, on page 26, provided a table titled 2014 Strip Centre Capitalization Rate Study. The table contains the details of eight sales that occurred in the period November 21, 2011 and November 29, 2012, with cap rates ranging from 4.28% to 7.21%. The mean cap rate was 5.98% and the median cap rate was 6.21%. The Respondent noted the subject was assessed using a cap rate of 6.25%.

[20] The Respondent noted that the sale of 3321 27 ST NE was not used by the Complainant because the RealNet report identified the property as a Community Shopping Centre, which is incorrect. The property has no anchor tenants and as such it is a Retail Shopping Centre as denoted on the Property Assessment Summary Report on page 115 of C-1. Similarly, the Complainant relied on the incorrect property description from the RealNet report and did not use the sale for 4337 Macleod TR SW, the sale for 3111 17 AV SE, the sale for 14315 Macleod TR SW and the sale for 831/805 Edmonton TR NE.

[21] The Respondent submitted that the Complainant should not have used the sale of 3502 17 AV SE in its cap rate study because it was the tenant that was purchasing the property. Further the Complainant should not have used the sale of 4712 16 AV NW because the property was purchased for the purchaser's own use.

[22] The Respondent, on page 86, provided a table titled Canadian Cap Rate Survey / Q2'13 as prepared by CBRE National Research, noting that the cap rate for Strip (non anchored) in Calgary was 6.25% to 6.75%. The Respondent noted the Complainant was requesting a cap rate of 7.00%, which is outside the range.

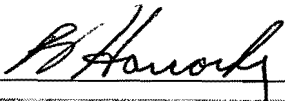
CARB's Findings:

[23] The CARB finds the Complainant relied upon cap rates and actual rents that were provided by third parties, some of which were estimated. The CARB has no way of knowing how those rates or rents were derived or for what purpose. The Respondent followed the methodology articulated in MGB 145/07. The CARB understands that calculating the value of a property using the Income Approach must be based on a consistent methodology. If "actual" rates are to be used to calculate a value using the Income Approach, then all of the parameters in that calculation must reflect actual values. The CARB finds the Complainant's final calculation of the market value is flawed. The Complainant used "actual" NOI to calculate its cap rate and then applied that cap rate along with "typical" lease rates and other "typical" parameters in its requested assessment calculation. The mixing of the two methods is not appropriate.

CARB's Reasons for Decision:

[24] The Complainant failed to demonstrate that the Respondent had erred in its determination of the cap rate for its mass appraisal process.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF August 2014.



B. Horrocks

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.*

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Property Type	Property Sub-Type	Issue	Sub-Issue
<i>Retail</i>	<i>Strip Plaza</i>	<i>Income Approach</i>	<i>Cap Rate</i>