

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Linnell Taylor & Associates, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, T Golden
Board Member, J. O'Hearn
Board Member, T. Usselman***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBERS:	074000605
LOCATION ADDRESS:	5315 17 Av. SE
HEARING NUMBER:	58600
ASSESSMENT:	\$5,640,000.00

This complaint was heard on 30 day of September, 2010 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:

- *D. Sheridan*

Appeared on behalf of the Respondent:

- *K. Gardiner*

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

The Respondent objected to a rebuttal document that the Complainant wished to submit to the Board. In their opinion the document was not disclosed within the time periods required by the legislation. The Board reviewed the dates by which information was required to be disclosed and found that the rebuttal document was not disclosed within the required times. The Board determined that the rebuttal document would not be introduced and the hearing proceeded without the Complainant submitting the rebuttal.

Property Description:

The subject property is a multi tenanted retail strip mall located in the Forest Lawn area of the City. Constructed in 1978 there is 42,215 square feet (sq. ft.) of rentable area in the mall. Commonly known as the Forest Hills Plaza the mall is designated retail strip CM0210 and the assessment was conducted using the income approach.

Issues:

- 1) Is the commercial retail unit rental rate of between \$12.00 to \$14.00/sq. ft. used by the Respondent for the various lease areas, the appropriate rental rate?
- 2) Is the capitalization rate of 8.25% used by the Respondent in the income approach the appropriate rate?

Complainant's Requested Value:

By substituting the reduced rental rate and revised capitalization rate the Complainant has calculated a requested value of \$4,720,000.00

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

- 1) The CRU rental rate of between \$12.00 to \$14.00/sq ft. is the appropriate rare to be applied to the subject property.

The Complainant presented 9 relatively newly signed leases demonstrating a weighted mean rental rate for this property would be \$11.25. This value was further modified to \$11.00/sq. ft. In part the Complainant suggested that a lower rental rate is appropriate at this location as the structure is

somewhat older and the property is under performing. Another indicator of the lower performance of the strip mall is that 6 of the 9 leases used as comparables were signed on month by month basis.

The Respondent recognized that indeed the mall maybe currently performing at a lower than expected level as will be shown in some of the comparables. It is important to develop and use typical rental rates. The Respondent provided a table of twenty two leases in the same market area as the subject, for various size retail areas. These leases signed in 2008 and 2009 show a mean rent of \$14.13.

The Board recognizes the argument that the mall maybe underperforming but was not convinced that this is a chronic or location issue. It is therefore important to establish a typical rental rate to apply to the subject property. Evidence of actual lease rates provide by the Complainant was give less weight because some lower rents may be the result of incentives or other management decisions. The Respondent had stronger evidence as to typical rents. The Board notes that the rental rates used by the Respondent appear somewhat lower than the values suggested by the comparables, suggesting some of the limitations of the subject are recognized.

2) The capitalization rate of 8.25% used by the Respondent is the appropriate rate.

It was argued by the Complainant that the capitalization rate that should be applied in this case is 8.50% based on 2009 market sales of 5 properties and the reported capitalization rates provided by Real Net. These sales indicated a median capitalization rate of 8.70%. The Complainant further modified the requested capitalization rate by analyzing the sale comparables and arrived at an adjusted rate of 8.50%.

The Respondent stated that the City had conducted a capitalization rate study to determine that 8.25% was an appropriate rate. In support of the rate the Respondent provided the Board with a table of 7 sales of similar properties supporting the capitalization rates. One property at 5220/5010 4 St. NE. was also used by the Complainant.

The Board found that many of the Complainants comparables are not similar to the subject. The exception was 5220/5010 4 St. NE which was used by both parties. This property had a capitalization rate of 8.3% which supported the assessment.

Board's Decision:

The assessment is confirmed at \$5,640,000.00

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2010.



Tom Golden
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C-1 Letter of Complaint
2.	Exhibit C-2 Complainant's Brief
3.	Exhibit R-1 Respondent's Assessment Brief

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.*