

**CALGARY
COMPOSITE 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:

***Macro Realty & Management Ltd.
(as represented by Colliers International Realty Advisors Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***J. Fleming, PRESIDING OFFICER
B. Jerchel, MEMBER
R. Roy, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 138009501

LOCATION ADDRESS: 20 Douglas Woods Dr. SE

HEARING NUMBER: 63169

ASSESSMENT: \$3,860,000

This complaint was heard on 25 day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *D. Porteous*

Appeared on behalf of the Respondent:

- *K. Gardiner*

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

There were no procedural or jurisdictional matters raised at the hearing. However, it should be noted that the total value of the property (\$4,219,575) includes an exempt portion in the amount of \$356,500 which is not under complaint. Accordingly, the assessed value according to the City is the \$3,860,000 noted above.

Property Description:

The property is a 15,094 square foot (sq. ft.) strip centre with two buildings (11,802 sq. ft. & 3,292 sq. ft.) located on 1.74 acres of land. The property contains a gas bar which by agreement between the parties is listed as a nominal "1" sq. ft. The property, which was built in 1988/1990, is rated B+ quality and the land use designation is Commercial – Neighbourhood 2. The property has Corner Lot and Traffic Collector influences, and is valued on the Income Approach (IAV).

Issues:

There were a number of issues listed on the complaint form, but at the hearing the Complainant indicated there was only one issue in dispute.

What should the Capitalization Rate be for the property: 8.41% as proposed by the Complainant or 7.50% as used by the Respondent.

Complainant's Requested Value:

\$3,410,000

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

The Capitalization Rate Study used by the City is a better representation for strip centre capitalization rates

Board's Decision:

The complainant argued that the property was a strip centre and introduced a cap rate study for strip centres that supported their request for an 8.41% rate rather than the 7.50% rate used by the Respondent/City. The Complainant's study (Ex. C1, pg 26) was virtually identical to the City's Strip Centre Study, except that they had revised four of the entries in the study (for which they had additional lease information) by calculating a "typical" rental rate based on actual lease rates which either were signed, renewed or came into effect close to the valuation date (in the case of step-up leases). All of the other attributes in their valuation calculations were identical to those used by the City. As a result, their analysis resulted in a mean cap rate from all sales of 7.79%. They also highlighted capitalization rates for properties over 10,000 sq. ft. and between 10,000 – 50,000 sq. ft. Based on the size of the subject (15,094 sq. ft.) they selected the median cap rate for properties between 10,000 – 50,000 sq. ft. at 8.41% and were requesting that the assessment be reduced to \$3,410,000, the value obtained using that rate. They were in agreement with all of the other attributes used by the City in their valuation.

The Respondent noted that the subject had sold twice; once in March of 2006, and again in August of 2009 (Ex. R1, pg. 27 & 28). Further, they noted that the subject sale had been included in the City's Cap Rate Study (Ex. R1, pg 31), and that the Assessment to Sales Ratio (ASR) was 1.01 using the Respondent's cap rate of 7.50% and .91 using the Complainant's cap rate of 8.41% noting that the City's ASR was within the mandated quality guidelines while the Complainant's was outside the range. This, they said demonstrated the validity of the City's cap rate study, and should cast doubt on the reliability of the Complainant's.

Further, they noted that the Complainant was not using true typical rents for the four properties they had calculated revisions for, but rather a form of actual rents which was not a proper method. All of these reasons led the Respondent to ask for confirmation of the assessment.

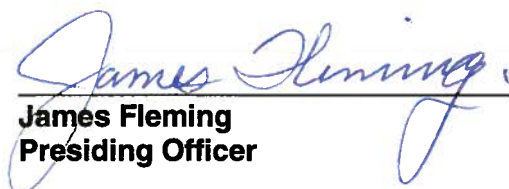
The CARB considered all of the evidence and argument. The CARB agreed with the Respondent, that the use of "actual" rents for the subject by the Complainant (even though care was taken to select rents close to the time of the sale) in calculating cap rates on the sale was not appropriate methodologically, unless the "actual" rents could be demonstrated to be truly typical. There was little evidence from the Complainant to support their typical rent (i.e. Matters Relating to Assessment and Taxation Regulation Alberta Regulation 220/2004, 2(c) must reflect typical market conditions for properties similar to that property.). As a result, the CARB could not put a great deal of weight on the Complainant's cap rate study.

Additionally, the CARB agreed with the Respondent that the ASR's for their sales in the Cap Rate Study provided good support for their values. Accordingly, the CARB ruled as noted below.

Board's Decision:

The appeal is denied and the assessment confirmed at \$3,860,000.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF August 2011.


James Fleming
Presiding Officer

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

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.*