IN THE MATTER OF A COMPLAINT filed with the City of Grande Prairie *Composite Assessment Review Board* (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Colliers International Valuation & Advisory Services - Complainant

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City of Grande Prairie - Respondent

BEFORE:

Members:
J.P. Acker, Presiding Officer
B. Dixon, Public Member
J. Munroe, Public Member

A hearing was held on October 4, 2011 at the Grande Prairie Museum 10329 – 101 Avenue – Multi-Use Room, in the City of Grande Prairie in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

Roll Number:	**804780**
Civic Address:	**8200 – 100 Street**
2011 Assessment:	**$ 2,272,300**

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The Grounds of Appeal:

The assessment notice identifying the above facts was mailed March 1, 2011. The Complainant, Colliers International Valuation & Advisory Services filed a complaint against the assessment April 29, 2011. At issue is whether or not the assessed value fairly represents the market value of the subject property.

Property Description:

The subject property is a 12,221 square foot strip mall shopping centre located at 8200 – 100 Street built in 2005. The property has suffered from high vacancy since its construction and currently has 5,656 square feet of vacant space.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

The Grande Prairie Composite Assessment Review Board derives its authority to hear and decide appeals under Part 11 of the Municipal Government Act of Alberta.

The Respondent raised an objection to the Complainant's rebuttal submitted only 6 days prior to the hearing when the regulation requires a full 7 days. The Complainant indicated that the rebuttal document contained relevant Board Orders to support the request for an increased vacancy allowance for the subject property.

The Board determined that the submission was indeed late and set aside the written material as not having been properly disclosed. It was indicated to the parties, however, that precedent decisions are matters of public record and could be referenced and addressed during the hearing by both parties in support of their positions.

PART C: PARTY POSITIONS

The Complainant provided evidence and testimony supporting his contention that the subject property suffers – and has suffered since its construction – a chronic vacancy problem. His rent roll indicated an approximate 46% vacancy as of the July 1, 2010 valuation date, yet the assessor had allowed only a 15% vacancy allowance in the income calculation from which the property was assessed. He further indicated that this chronic vacancy would have an impact on market value and/or the risk associated with an investment in this property. Hence, the CAP rate of 8.25% was also incorrect.

He testified that the Grande Prairie commercial retail market has not changed substantially since the last assessment year and that the CAP rate applied to the subject property in the 2010 assessment year was 8.75%.

The Respondent agreed that the vacancy in the subject property was indeed high since its construction and through questioning indicated that the City's evidence was incorrect in stating a vacancy rate of 26%.

The Respondent noted that other properties within the City of Grande Prairie suffer from greater vacancy, including one at 100% since construction – yet that property only enjoys a vacancy rate of 20% for the income calculation approach to value.

As to the CAP rate, the Respondent assessor testified that there was only one sale since the last assessment year, but the City derived its CAP rates from an independent report provided by Gettel Appraisals Ltd. The Assessor provided extracts from that report, but could not elaborate on the source data or methodology used in determining CAP rates.

FINDINGS:

1. The assessed value derived utilizing the income approach is incorrect due to an inappropriate vacancy rate applied.
2. The assessed value derived utilizing the income approach is incorrect due to an inappropriate CAP rate applied

DECISION: The assessment is reduced to $ 1,767,100

REASONS:

The Board found that the approach utilized by the City of Grande Prairie in determining the vacancy rate input in its income approach to value for the subject property is fundamentally flawed.

The City of Grande Prairie has established a typical vacancy rate of 4% for commercial retail properties. This rate is adjusted for new construction on the basis of a sliding scale, adjusted annually from 25% in the first year, declining by 5% a year until the typical rate is reached. For properties exhibiting a chronic vacancy problem, the City surveyed a number of instances and found one property that suffers from 100% vacancy. It then set 20% as an input value to the income approach calculation for this property. This is in itself an indicator of error. An income approach to value for a property that has no income cannot produce a defensible value. Compounding this error by using the 20% benchmark to apply as a maximum allowable vacancy rate produces a systemic inequity affecting all other properties demonstrating chronic vacancy.

The Board was disappointed with the evidence provided by the Complainant insofar as there was little support for a chronic vacancy argument based on only one rent roll for the current assessment year. However, since the Respondent agreed that the subject did suffer from a vacancy problem approaching 50% since its construction in 2005, the Board accepted the chronic vacancy request of 25% by the Complainant as being reasonable.

The Complainant's argument regarding an appropriate CAP rate of 8.75% was supported only by his observation that there is little evidence of change in the Grande Prairie Commercial Property marketplace since the prior assessment year – a year in which the subject had been assigned that rate for calculation of the subject's assessment.

The Respondent's defense of the 2011 CAP rate was that it was applied according to the rates suggested in a report (Gettel Appraisals) of which only extracts had been submitted into evidence. Testimony indicated that the Respondent was aware of only one commercial retail sale in the past year and that a detailed discussion of the methodology and inputs used in the Gettel report was unavailable for this hearing.

The Respondent's evidence of comparable assessments exhibited a range of CAP rates that could not be fully explained by age, condition, location or vacancy. Since neither of the parties provided any evidence in support of changed market conditions in the Grande Prairie commercial/retail real estate market and no sales comparables were available to the Board, greater weight was given to the Complainant's argument for an 8.75% CAP rate that reflects a greater risk to a purchaser of the subject property.

The Board is sympathetic to the challenges facing the Assessor in a market in which few transactions are available for analysis. However, case law, including Bramalea addresses the assessed person's right to an assessment that is both fair and correct. Equity is not achieved in the process of mass appraisal if calculation inputs are flawed to the extent where the calculated value for any individual property does not represent that property's market value.

Accordingly, the Board varies the assessment and reduces it to $ 1,767,100.

It is so ordered.

Dated at the City of Grande Prairie this 4rd day of October, 2011.

J. P. Acker, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

1A Evidence Submission of the Complainant
3R Evidence Submission of the Respondent

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Plaza	Income Approach	Chronic Vacancy