

**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:

MV Property Ltd. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. McEwen, PRESIDING OFFICER

D. Julien, MEMBER

K. Coolidge, 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: 200168136

LOCATION ADDRESS: 5220 FALSBRIDGE DR NE

HEARING NUMBER: 63116

ASSESSMENT: \$19,210,000

This complaint was heard on the 20th day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- D. Zhao
- B. Thompson

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

There were no procedural or jurisdictional matters.

Property Description:

The subject property is a 298,816 square foot parcel improved with a 74,522 square foot neighbourhood shopping centre, the McKnight Village Mall, located in the Falconridge district of NE Calgary.

Issues:

Is the subject assessment too high and, therefore, inequitable to comparable properties?

Specifically,

1. Should the subject capitalization rate be increased from 7.50% to 7.75%?
2. Should the rental rate applied to the automotive component of the subject assessment be decreased from \$18 per square foot to \$12 per square foot?

Complainant's Requested Value:

\$17,540,000

Board's Findings and Reasons in Respect of Each Matter or Issue:

1. Should the subject capitalization rate be increased from 7.25% to 7.75%?

The Complainant provided argument and evidence that the typical Neighbourhood Shopping Centre capitalization rate of 7.25%, applied to the subject property for assessment purposes, was incorrect. The Complainant argued that the city's employment of typical rent rates to calculate a typical cap rate resulted in a cap rate lower than investors in the marketplace would be willing to assign the subject property. In support of the argument, the Complainant provided a table of five, 2009 Neighbourhood Shopping Centre sales, including the subject property, indicating mean and weighted mean capitalization rates of 7.87% and 7.70% respectively. The Complainant also provided a valuation analysis conducted for each of the properties

represented on the table. The valuation analysis used the city's typical inputs for vacancy, vacant space shortfall and non-recoverables while adjusting the rent rates to match the actual leases on the rent roll. Vacant space was provided a rent rate consistent with the leases in place for similar space within the specific property. The Complainant argued that the Respondent's typical capitalization rate of 7.25% was not supported by the actual income generated by the properties used in the city's capitalization rate study for Neighbourhood Shopping Centres. The Complainant further argued that several of the property sales used by the Respondent to develop the typical capitalization rate for Neighbourhood Shopping Centres were not representative of typical transactions and, therefore, should be provided very little weight by the Board. The Complainant also pointed out that the sale of subject property in May, 2009, demonstrated a resulting cap rate of 8.00%.

The Respondent provided a table of eight neighbourhood shopping centre sales that were used to develop the city's 2011 Neighbourhood, Community Centre Capitalization Rate Study. The sale of the properties occurred between August, 2008 and April, 2010 and provided a median cap rate of 7.16%. The Respondent explained that cap rate calculations were moved to the closest .25%. Accordingly, the typical cap rate for Neighbourhood Shopping Centres was established at 7.25%. The respondent described the sales as valid and representative of the marketplace. In addition, the Respondent provided a table, entitled 2010 Published Capitalization Rates, summarizing the cap rate analysis of three national real estate firms that reported the second quarter, 2010 Capitalization Rate for Neighbourhood/Community Shopping Centres to be 6.75-7.30%. The Respondent also provided a chart (Neighbourhood, Community Centre Capitalization Rate Assessment to Sales Ratios, 7.25% v. 7.75%) that compared the average and median Assessment to Sales Ratios (ASR) for the eight properties used in the city's neighbourhood cap rate study. The analysis demonstrated that a cap rate of 7.75% resulted in a median ASR ratio of 0.87, lower than the ASR derived from a 7.25% cap and below the mandated range of 0.95-1.05. The Respondent argued that properties within the study would be under assessed using the higher cap rate.

In rebuttal, the Complainant provided an analysis of the eight sales used by the Respondent in the 2011 Neighbourhood, Community Centre Capitalization Rate Study. The Complainant argued that the application of typical inputs to determine the potential gross income (PGI) and net operating income (NOI) of each property distorted the results and ultimately, delivered an unreliable capitalization rate calculation for the properties. The Complainant further argued the typical rates themselves were unevenly applied to properties sharing similar characteristics, thereby magnifying the inconsistency of the assessment process. The Complainant also dismissed the importance of the ASR comparison provided by the Respondent. The Complainant argued that there was no evidence provided to support the time adjustments applied to the sale prices used in the study and, therefore, asked whether the calculated ASRs were nothing more than numbers manufactured to support the assessments. The Complainant also questioned how meaningful the Respondent's ASR study was given that it related to dissimilar properties which transferred infrequently. Finally, the Complainant dismissed three sales used by the Respondent in the 2011 Neighbourhood, Community Centre Capitalization Rate Study. The sale of West Springs Village, located at 873 85 ST SW, was described as unbrokered and, therefore, considered non arms-length by the Complainant. The sale of Deer Valley Market Place, located at 1221 CANYON MEADOWS DR SE, included developable land which the Complainant argued distorted the value of the improved property and was unadjusted by the Respondent within the cap rate study. The sale of The Market at Quarry Park, located at 163 QUARRY PARK BLVD SE, was also challenged by the Complainant as the property was part of a portfolio sale between the developer and purchaser.

The remaining five properties from the Respondent's cap rate study, adjusted by the Complainant for actual leases in place, provide a mean cap rate value of 7.87%, supportive of the Complainant's requested Neighbourhood Shopping Centre cap rate of 7.75%.

The Board finds that the requested Neighbourhood Shopping Centre capitalization rate of 7.75% to be unsupported by the evidence before it. Although the Complainant raised some legitimate questions regarding the Respondent's cap rate study, the Complainant failed to provide better evidence to support an alternative cap rate. The Board finds the Complainant's position that actual leases provide a better indicator of value than typical leases to be just a starting point for a more exhaustive study of the inputs that define the Income Approach to Value. The Complainant fails to explain how these inputs might move in relation to one another. For example, does a lease rate influence the related vacancy rate of a property? By accepting the typical vacancy rate provided by the Respondent, the Complainant suggests that there is no influence and yet this conclusion defies common sense. The weakness of the Complainant's argument is that it simply doesn't go far enough and makes broad assumptions regarding input values that the Board cannot accept. It is not enough for the Complainant to simply state that the city's typical inputs are accepted without the analysis to indicate that each typical input is appropriate to each property. As the Complainant described the properties to be a heterogeneous collection, the Board requires discrete and complete calculations for each.

The Board does give some weight to both the Respondent's ASR Study and to the third-party reports which support the assessed cap rate of 7.25%.

2. Should the rental rate applied to the automotive component of the subject assessment be decreased from \$18 per square foot to \$12 per square foot?

The Complainant provided the Master Rent Roll for McKnight Village Mall indicating a lease for the Blaskin & Lane Tire Centre at \$11.49 per square foot. The lease, originally signed in December, 2003 was renewed in December, 2008. The Complainant argued that the lease supported a requested assessment rate of \$12 per square foot. The Complainant also provided a table of twelve equity comparables indicating a range of rates from \$7.50-\$14 per square foot. In addition, the Complainant argued that the Blaskin & Lane site is less favourable than typical automotive locations due to the encroachment of the Shoppers Drug Mart, the anchor tenant of the subject mall. The Complainant argued that the Shoppers Drug Mart blocks the Blaskin & Lane physically (the merchant can no longer provide drive thru service) and visually (potential customers can no longer see Blaskin & Lane from either the surrounding thoroughfares or from within the mall).

The Respondent provided a table of ten lease comparables indicating a median lease of \$18 per square foot. The Respondent argued that the comparables presented were similar to the subject in that the business conducted from these locations was of a similar nature. The Respondent also provided a table of five NE equity comparables indicating an assessed rate of \$18 per square foot. In addition, the Respondent argued that the adjacency of the Shoppers Drug Mart benefitted the subject as the Shoppers attracted potential customers to the immediate area of the subject.

The Board finds the subject property's assessed rate of \$18 per square foot to be fair and equitable compared with similar properties based upon the evidence before it. The Complainant has provided just two pieces of evidence; the subject lease and a table of equity comparables.

The Board finds the lease to be a renewal (in 2008) of a lease originating in 2003 and, therefore, dated. The equity comparables are not found to be helpful as the rates provided are the business rates attributed to the NARVs of the comparables. It is also unclear to the Board if the comparables are of a similar business type as the subject. There are no photographs to help the Board in this matter. The Board accepts the Respondent's lease and equity evidence as supportive of the assessed rate.

Board's Decision:

The assessment is confirmed at \$19,210,000.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF August 2011.


C. McEwen
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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.*