

**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:

***First Capital (Transcanada) Corporation, (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***I. Weleschuk, PRESIDING OFFICER
D. Julien, MEMBER
J. Pratt, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

Roll Number:	052221215
Property Location:	1440 52 Street NE
Hearing Number:	68497
2012 Assessment:	\$36,570,000

This complaint was heard on August 1, 2012 at the office of the Assessment Review Board located at Floor Number Three 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- *Mr. Andrew Izard – agent*
- *Mr. Brendan Neeson - agent*

Appeared on behalf of the Respondent:

- *Mr. Robert Ford - assessor*

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

A. Procedural Matter – Dealing with a Number of Complaints with Similar Issues

- [1] At the opening of this hearing, both parties agreed that a number of files before this Board have similar issues and that for efficiency, the full set of files should be opened and the common issues addressed at one time. Both parties had evidence that was essentially the same for each of these files on the common issues. The issues common to these files relates to a Section 299/300 preliminary matter, and the capitalization rate evidence and argument for neighbourhood shopping centres. The Board agreed to this process and opened the following files concurrently, to address just the procedural matter related to Section 299/300 and the merit of the capitalization rate evidence/argument. Both these issues are discussed in detail in CARB Decision 1222/2012-P and apply to the subject file.

Roll Number	Owner	Address	File No.
200446730	Investors Group Trust Co. Ltd.	8338 18 St. SE	68593
121055206	Investors Group Trust Co. Ltd.	40 Riverglen Dr. SE	68584
121077208	Investors Group Trust Co. Ltd.	30 Riverglen Dr. SE	68585
114155005	Canadian Property Holdings (Alberta) Inc.	7740 18 St. SE	68464
149147118	First Capital Holdings (ALB) Corporation	1221 Canyon Meadows Dr. SW	68322
052221215	First Capital (TransCanada) Corporation	1440 52 St. NE	68497
097005805	Foothills Crossing Portfolio Inc.	3619 61 Av. SE	67783
133001214	Investors Group Trust Co. Ltd.	11520 24 St. SE	67970
133001701	Investors Group Trust Co. Ltd.	11540 24 St. SE	67967
132053018	Investors Group Trust Co. Ltd.	11566 24 St. SE	67971
201570314	Riocan Holdings Inc.	2929 Sunridge Way NE	68691

- [2] The parties did not object to the panel as constituted to hear this matter. The parties agreed that the Board has jurisdiction to hear the matters before it.

B. Removal of Evidence in the Complainant's Exhibits

- [3] The Respondent raised a preliminary issue related to the contents of the Complainant's evidentiary documents, arguing that certain portions of these evidentiary packages, which were appropriately exchanged, were not relevant evidence and should not be heard. The two parties asked for a recess to discuss the issue, which the Board granted. Upon resuming the hearing, the parties informed the Board that they had addressed the issue raised by the Respondent, and that the Complainant agreed to have certain pages removed from their evidence packages. The exhibits before this Board will be the documents as disclosed, with specific pages removed as agreed to by the parties, as indicated in Appendix A.

C. Procedural Issue: Section 299/300

- [4] The Complainant raised a procedural issue related to Sections 299 and 300 of the Municipal Government Act (MGA). Specifically, the Complainant made a request for specific information relating to this assessment in the manner prescribed by the municipality and was of the opinion that the information requested was not provided. The Complainant requested that certain portions of the Respondent's evidence not be heard because the municipality did not comply with the Section 299/33 information request. After review, the Board concluded that the request was complied with and would hear all the evidence properly disclosed. For a more detailed discussion of this issue, see CARB Decision 1222/2012-P.
- [5] The hearing then proceeded with a consideration of the merits of the complaint.

Property Description:

- [6] The subject is designated as a neighbourhood shopping centre (CM1402 Retail) and is referred to as the TransCanada Shopping Centre in the Marlborough Park District of northeast Calgary. The property has a site area of 16.46 acres with a number of buildings totalling an assessable area of 183,243 square feet (SF). The original construction was in 1974, with additional buildings constructed in 1992. The tenants consist of a mix of commercial retail units, including some tax exempt space. The shopping centre is anchored by a Safeway's supermarket.
- [7] The subject is assessed using an income approach, applying the 2012 rates developed by the City for this assessment category, including a 7.25% capitalization rate and rental rates for each sub-category of retail use. The 2012 assessed value is \$36,570,000.

Issues:

[8] The Complainant raised the following issue, as the basis for the complaint:

1. **Is the subject property correctly assessed? Specifically is the capitalization rate of 7.25% the correct rate to use in the income approach calculation?**

Complainant's Requested Value: \$34,200,000

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

1. **Is the subject property correctly assessed? Specifically is the capitalization rate of 7.25% the correct rate to use in the income approach calculation?**

[9] The Board considered this issue in detail and provided its conclusions and reasons for those conclusions in CARB Decision 1222/2012-P. The Board concluded that the capitalization rate of 7.25% is appropriate to use in calculating the 2012 assessment for neighbourhood shopping centres.

Board's Decision

[10] Based on the evidence presented (discussed in detail in CARB Decision 1222/2012-P), the Board concludes that a capitalization rate of 7.25%, reflects market value. As this was the only issue before the Board, the Board confirms the 2012 assessment of \$36,570,000.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF August 2012.


Ivan Weleschuk
Presiding Officer

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

Exhibit No.	Description	Pages removed from original disclosure package.
C1	Complainant Evidence	94-130
C2	Complainant Evidence - Appendix	
C3	Complainant Rebuttal	10-37, 116-120, 189-202, 208-210, 220-366
C4	April 13, 2012 Website Information Reference Package	
C5	City's June 21, 2012 Information Package	
R1	Respondent Evidence	

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.*