

**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:

The Toronto Dominion Bank (as represented by AltusGroup), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, D. Morice
Board Member 2, D. Julien***

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: 175034008

LOCATION ADDRESS: 260 Crowfoot Crescent NW

HEARING NUMBER: 63679

ASSESSMENT: 4,510,000.00

This complaint was heard on 26 day of July, 2011 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Twelve

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *S. Turner*

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

There were no procedural or jurisdictional matters to be dealt with.

Property Description:

The subject consists of the TD / Canada Trust premises, located in the Crowfoot Power Centre in NW Calgary. The complex comprises a free standing 12,530 s.f. two storey bank and office building, on a 1.93 acre parcel of land. The complex was built circa 1995. The building is classified as a B+ office building by the City.

Issues:

The premises are currently assessed using the income approach. The rent applied by the City is \$32.00 per s.f. for the 6,530 s.f. bank, and \$24.00 per s.f. for the 6,000 s.f. of second storey office space. The capitalization rate applied is 7.25 per cent.

The Complainant does not dispute the valuation method. The Complainant maintains that the appropriate capitalization rate to be applied should be 7.75 per cent. On the basis of equity, the Complainant maintains that the appropriate rents should be \$30.00 per s.f. for the Bank, and \$14.00 per s.f. for the second storey office space.

There are no other issues.

Complainant's Requested Value: \$3,330,000.00

Evidence

1.) Capitalization Rate

The Complainant submitted a Capitalization Rate analysis intended to show that a rate of 7.75 per cent was a more appropriate capitalization rate for the subject. Within the analysis, the Complainant stated that the net operating income used to generate a market value assessment must be derived from typical rates, while the rates used to determine a market capitalization rate must be actual rents. The study contained three comparables for analysis. The analysis was entitled "Leased Fee Estate (LFE) Valuation. During the hearing, the Complainant advised the Board that the heading should be removed, as the analysis was intended to be a Fee Simple analysis. Three comparable transactions were presented, all of which are in Crowfoot Centre.

Two took place in 2009, and one occurred in 2010. The three reflected rates of 7.28 per cent to 7.95 per cent, with a median capitalization rate of 7.72 per cent. The Complainant submitted that the rates were derived by using actual selling prices, and actual rents. The rents, however, were stabilized with typical vacancy rate, typical non-recoverable allowance, and typical vacancy shortfall.

The Respondent used four transactions in the capitalization rate analysis. Two were common to the Complainant's evidence. One was post facto. While the Respondent used the actual selling price, all of the other inputs used, including the rents, were based on typical rates. The results of the analysis was a range of 6.34 to 7.97 per cent. The average and median appeared at 6.84 and 7.00 per cent. Excluding the post facto transaction, the average and median were 7.21 and 7.33 per cent. In addition, the Respondent presented third party evidence from published, reliable sources that capitalization rates for Power Centers ranged from about 6.50 to 7.00 per cent.

2) Rent

The Complainant submitted a list of 14 office comparables in NW Calgary, that reflected an average and median rent of \$12.54 and \$12.50 per s.f. respectively. All of the comparables are Class B suburban offices. The class B rating is considered inferior to the subject's B+ classification. None of the comparables are located in the Crowfoot Power Centre.

The Respondent presented three office comparables, at rents ranging from \$22.00 to \$29.00 per s.f. All are located in the same Power Centre as the subject. In addition, the Complainant's own evidence shows rents for the office portions of two comparable bank properties at \$25.00 per s.f.

For the bank portion, the Complainant submitted two comparables. The rent for the Bank space is shown at \$30.00 per s.f. Both properties are in the Crowfoot Business Centre. Both comparables are part of larger developments containing both office and retail space.

The Respondent presented two rental comparables, both of which are on Crowfoot Way NW. Both are stand alone buildings. The rent is \$32.00 per s.f. on both instances.

According to the Respondent, the applied bank rental rate is either \$30.00 or \$32.00 per s.f. The retail rate is \$32.00 per s.f., and the rate for office use is \$30.00 per s.f. The subject building is categorized as a retail building. Nothing in the Complainant's evidence contradicts the Respondent's position.

Board's Decision

With respect to issue the capitalization rate, the Board finds that the Respondents approach is the most consistent, in that all of the inputs used to develop the rate are typical rates. The Complainant, on the other hand, used actual rents, and then applied typical rates to arrive at a stabilized net operating income. The latter approach, in the Board's opinion, provides a better indication of the leased fee estate (as entitled on the Complainant's submission) than it does a value for the fee simple estate. The Board finds that the Respondents approach is the most appropriate, hence the Respondent's result is the most appropriate.

By reason of location and, to a lesser extent, the building classification (age and quality) the Board finds the Respondent's rent evidence to be more convincing than that of the Complainant.

Overall, there is not sufficient evidence to prompt the Board to make a change to the existing assessment.

The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS *30th* DAY OF *August*, 2011.



Jerry Zezulka
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:****NO. ITEM**

1. C1 Complainant Submission of Evidence,
2. C2 Complainant , Non-Residential Properties – Income Approach Valuation
3. C3 Complainant 2011 Capitalization Rate – Rebuttal Submission
4. R1 City of Calgary 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.*

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<i>Decision No. 1509/2011 - P</i>		<i>Roll No. 175034008</i>		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	2, Power Centre	Stand alone	Income approach	Capitalization rate, net market rent, lease rates