

**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:

***Calgary Co-Operative Association Limited,
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
R. Roy, MEMBER
T. Usselman, 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:	037159902
LOCATION ADDRESS:	4122 BRENTWOOD ROAD NW
HEARING NUMBER:	63788
ASSESSMENT:	\$12,530,000

This complaint was heard on 8 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Mr. B. Neeson* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Ms. B. Thompson* *Assessor, City of Calgary*

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

The Respondent raised a procedural issue at the commencement of the hearing. She indicated that the Complainant's rebuttal was due on August 2, 2011. However, a portion of that rebuttal was not received until after midnight on August 3, 2011. The Complainant submitted that the rebuttal was sent in several parts. The portion under dispute was several hundred pages and he acknowledged that it was late. He indicated it was sent at 11:59 pm via email; however, due to its size, the email was returned and it had to be resent. He argued that the Respondent was not prejudiced by the rebuttal being sent a few minutes past the deadline.

The Board finds this portion of the rebuttal will not be heard. It was a risk to send it at 11:59 pm the day it was due. The Complainant acknowledged this was not the first time this has happened. He is aware that large PDF documents sent by email may be returned to the sender. The portion of the rebuttal is late as it was sent to the Assessment Department after midnight.

Property Description:

The subject property is known as the Calgary Co-op, a neighbourhood shopping centre, located in the community of Brentwood. The total building area is 57,641 sq. ft. and it is comprised of a gas bar, a bank, various commercial retail areas, a pad restaurant and a supermarket. The improvement dates back to 1966. The subject property is situated on 6.06 acres and the land use designation is Commercial Corridor 3.

The subject property was assessed based on the Income Approach to value. It is the capitalization rate, the assessed rates applied to the CRU spaces and the vacancy rate which is under complaint. The valuation parameters applied to the gas bar, bank, restaurant pad and supermarket are not in dispute.

Issues:

1. The capitalization rate should be changed from 7.25% to 7.75%.
2. The assessed rates applied to the CRU spaces are too high.
3. The vacancy rate should be changed from 7.5% to 15% to reflect its chronic vacancy.

Complainant's Requested Values: \$11,030,000 (includes a 15% vacancy rate) or
\$11,150,000 (includes a 13% vacancy rate)

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

1. The capitalization rate should be changed from 7.25% to 7.75%.

The Complainant began his presentation by referring to several excerpts from court cases and Real Estate Appraisal texts in support of developing a correct capitalization rate methodology (Exhibit C1 pages 31- 33). He also noted in 2008 and 2009 the City of Calgary used actual net operating income adjusted for typical market conditions (Exhibit C1 pages 37 & 38).

The Complainant submitted a 2011 Shopping Centre Capitalization Rate Analysis in support of a change in capitalization rate from 7.25% to 7.75% for the subject property's assessment (Exhibit C1 pages 40 – 72). The Complainant's analysis was based on 5 shopping centre comparables that sold in 2009. The shopping centres ranged between 29,722 sq. ft. – 83,603 sq. ft. which had sold for \$6,944,450 - \$32,000,000. The Complainant led the Board through the adjustments that he had made to the actual income to these sales, if required, to reflect typical market rents (Exhibit C1 pages 42 – 77; Exhibit C3). He applied the same valuation parameters as the Respondent in terms of Major Space Vacancy (1%) CRU Space Vacancy (2%) and Office Space Vacancy (2%), Vacant Space Shortfall (\$8.50 psf) and Non-Recoverable Allowance (1%) to the sales comparables and established a capitalization rate of 7.35% - 8.66% for these sales comparables. The weighted mean was 7.71%. This formed the basis of the Complainant's request of 7.75% for a capitalization rate.

The Respondent submitted that the capitalization rate of 7.25% was based on a 30 - month time frame of sales that occurred of neighbourhood, community shopping centres (Exhibit R1 page 178). She submitted 8 sales of neighbourhood shopping centres, 29,722 sq. ft. - 195,969 sq. ft., which had sold for \$6,944,450 - \$40,637,317 in 2008 – 2010 (Exhibit R1 page 179). The Respondent set out the capitalization rate applied to the shopping centres based on their actual income parameters that ranged between 5.82% - 8.79% (median of 6.95% and an average of 7.02%). The Respondent also set out the capitalization rate that was derived using typical income parameters in the year of sale which ranged between 5.01% - 8.38% (median 7.04% and average 7.10%). It is based on the typical income parameters that the Respondent derived a capitalization rate of 7.25%. She argued that less weight should be applied to the Complainant's methodology as he is mixing actual and typical income parameters to derive his capitalization rate which is not consistent as well it was based on the leased fee estate, as opposed to the fee simple estate.

The Board finds the Complainant did not present sufficient evidence to show that a change in the capitalization rate from 7.25% is warranted. During the hearing, the Complainant conceded that based on his capitalization rate analysis, the median is 7.5% which would be the appropriate rate to apply as opposed to the 7.75% as requested. The Board is reluctant to change a capitalization rate by a quarter of a percent (0.25%) without an abundance of sales in the market place to support such a change. Moreover, the Board notes the adjustment is so minimal that it would only result in a change to the subject property's overall assessment by 3%.

2. The assessed rates applied to the CRU spaces are too high.

The Complainant submitted that the assessed rates applied to the following CRU spaces are

too high and should be reduced accordingly:

Sub Component	Area (sq. ft.)	Market Net Rental Rate (psf)	Requested Rate (psf)
CRU 0- 1,000 sq. ft.	716	\$27.00	\$24.00
CRU 1,001 – 2,500 sq. ft	1,585	\$25.00	\$22.00
CRU 2,501- 6,000 sq. ft.	4,473	\$23.00	\$20.00

The Complainant submitted the Assessment Request for Information ("ARFI") for the subject property dated March 26, 2010 (Exhibit C1 pages 81 – 84). It shows that the areas of 716 sq. ft. and 4,473 sq. ft. are vacant. The area of 1,585 sq. ft. is currently leased to Barker's Fine Dry - Cleaning, for \$12.62 psf which is a month - to - month lease that commenced in 2009. The Complainant also presented assessed rates applied to CRU spaces for two neighbouring community shopping centre comparables located at 3750 Brentwood RD NW and 3802 Brentwood RD NW which formed the basis of his request (Exhibit C1 pages 85 - 91).

The Respondent submitted the Barker's Fine Dry - Cleaning was leasing its space for \$25.00 psf based on their completed Assessment Request for Information, Leasehold Improvement Allowance completed in September 2010 (Exhibit R1 page 60). The Respondent submitted there is a hierarchy of CRU space which the City is trying to maintain with rates of \$27.00 psf, \$25.00 psf and \$23.00 psf and similar properties have the same hierarchy (Exhibit R1 pages 183 - 189).

The Board finds the Complainant's requested assessed rates are based solely on the properties adjacent to the subject property; yet, he did not provide any explanation as to how their space was similar to the subject property. The Board also notes there was no 3rd party rental evidence to support his position.

3. The vacancy rate should be changed from 7.5% to 15% to reflect its chronic vacancy.

The Complainant submitted the vacancy rate should be increased to 15% to reflect its chronic vacancy. The Complainant submitted the ARFIs for the subject property dated March 2010, June 2008, and May 2007 (Exhibit C1 pages 105 – 118). It reported vacant space of 5,189 sq. ft. (9%) in 2010; 6,774 sq. ft. (11.5%) in 2008; and 6,774 sq. ft. (11.5%) in 2007. He also submitted CARB 0546-2010-P that dealt with the subject property's 2010 assessment in which the Board indicated that consideration of abnormal vacancy would be appropriate in 2011, not 2010 (Exhibit C1 pages 127 – 130).

The Respondent argued that the vacancy is owner initiated and therefore does not constitute chronic vacancy. The space is being used as storage for the Co-op (Exhibit R1 page 25). The Respondent submitted photographs which depict the Co-operators space is vacant although their sign is still there (Exhibit R1 page 24). The Brentwood area is in transition but this does not affect the subject property, unlike other neighbourhood shopping centres in the area, particularly, 3750 Brentwood RD NW and 3802 Brentwood RD NW (Exhibit R1 pages 194 - 196).

The Board finds the Complainant failed to establish a consistent pattern of chronic vacancy for

the subject property. There was no evidence submitted to show that the property owner (i.e. supermarket) was actively trying to lease out the space but was unable to do so. There was evidence that a decrease in overall vacancy rate occurred in 2009 with the Dry-Cleaners leasing out a small portion of the premises (1,585 sq. ft.). The 2009 ARFI was notably absent from the Complainant's analysis. The overall vacancy rate had decreased from 11.5% to 9% which is contrary to the 15% vacancy the Complainant was arguing before the Board. The Board also noted the Complainant did not explain how he derived a factor of 15% for chronic vacancy. In regards to CARB 0546-2010-P, the Board finds there was no evidence of an abnormal vacancy which would affect the 2011 assessment for the subject property.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$12,530,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF NOVEMBER 2011.


Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
1. C1	Complainant's Submission
2. C2	Complainant's Rebuttal
3. C3	Complainant's Capitalization Rate Analysis & Argument
4. R1	Respondent's Submission

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub - Type	Issue	Sub - Issue
CARB	Retail	Neighbourhood Mall	Income Approach	Capitalization Rate; Net Market Rent; & Expenses