

**CALGARY
COMPOSITE 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:

***Signal Hill Plaza Inc.,
(Represented by Altus Group Limited),***

COMPLAINANT

And

The City Of Calgary,

RESPONDENT

Before:

***M. Chilibeck, PRESIDING OFFICER
J. Lam, MEMBER
K. Farn, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 084099803

LOCATION ADDRESS: 1919 Sirocco Dr SW

HEARING NUMBER: 67764

ASSESSMENT: \$12,190,000.

[1] This complaint was heard on 9th day of October, 2012 in Boardroom 8 on Floor Number 3 in the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

[2] Appeared on behalf of the Complainant:

- A. Izard, representing the Altus Group

[3] Appeared on behalf of the Respondent:

- C. Fox, Property Assessor, representing the City of Calgary

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

[4] Neither party raised any objections to a member of the Board hearing the subject complaint.

Preliminary Matter:

[5] The Complainant objected to the inclusion of lease rate comparables in the Respondent's exhibit because this information was requested of the Respondent and was not provided. Specifically, the Board was asked to remove pages 24, 27, 30, 31 32 and 55 from exhibit R1.

[6] The Complainant argued that a request was made of the Respondent to provide information according to s.299(1) and s.300(1) MGA (Municipal Government Act) and the information was not disclosed according to s.299(1.1) and (2) and s.300(1.1) and (2) MGA. The Complainant argued that therefore the Board must not hear any evidence related to the above pages according to s.9 (4) MRAC (Matters Relating to Assessment Complaints Regulation).

[7] Reference was made by the Complainant to court decision 2012 ABQB 177 (CNRL) and several recent Board decisions rendered in September and October, 2012 on this matter. The court decision said the intent of s.299 is that all relevant information should be supplied to the taxpayer and the Board decisions ruled that when the requested information is not supplied as requested, it will not hear any evidence related to the excluded information.

[8] The Respondent asserted that subsequent to the earlier Board decisions rendered in July, 2011 on the subject matter, information was provided to the Complainant. The Complainant countered that the information did not include lease rate comparables for CRU retail space. The Respondent stated that the Complainant was advised that the CRU retail space lease rates are available for perusal at the office of the Respondent and that there was no response from the Complainant nor did the Complainant attend at the office of the Respondent to peruse the information. The Complainant argued that the CRU lease rates were not made available by the Respondent within 15 days of the request as required by s.27.4 (4) MRAT (Matters Relating to Assessment and Taxation Regulation).

[9] The Board finds that the MGA and its regulations imply that access to assessment information is important for both the assessing authority and the assessed owner. The consequences to either party for not providing information are significant. The Board must not hear any evidence from a municipality relating to information requested by a complainant but not provided to the complainant and conversely the Board must not hear any evidence from a complainant relating to information that was requested by the assessor but was not provided to the assessor.

[10] This has been reinforced by court decision 2012 ABQB 177 (CNRL) and several recent Board decisions rendered in September and October as referred to by the Complainant. The Board reinforces the finding that the Respondent cannot refuse to disclose information when requested by the Complainant or the assessed owner and then disclose the information in its disclosure to the Complainant.

[11] Therefore the Board excluded pages 24, 27, 30, 31 32 and 55 from exhibit R1.

Property Description:

[12] The subject property is a strip retail shopping centre with four buildings constructed in 1990 situated on 3.08 acres of land. The subject is classed as a Quality A+ property with a total area of 30,553 square feet (sq. ft.). The total area consists of three categories of CRU (Commercial Retail Unit) space; CRU space, 0-1000 sq. ft., of 3,635 sq. ft., CRU space, 1001-2500 sq. ft., of 16,556 sq. ft. and CRU space, 2501-6000 sq ft., of 10,361 sq ft. A gas bar and store are also included in the assessment of the property.

[13] The subject backs onto Sarcee TR and accessed via 17th Av and Sirocco Dr. It is predominately surrounded by single and multi residential property. It is located in the community of Signal Hill in south west Calgary and is commonly known as Signature Parke Plaza.

Issues:

[14] The Complainant identified the matters of an assessment amount and assessment classification on the Assessment Review Board Complaint (Complaint Form) and attached a schedule listing several reasons (grounds) for the complaint. At the hearing the Complainant advised that the assessment amount is under complaint and identified the following issue.

1. The assessed rental rate for each category of CRU space is not equitable with similar comparable properties.

Complainant's Requested Value:

[15] As per disclosure: \$9,680,000.

Board's Findings in Respect of Each Issue:

[16] The Complainant is not disputing the assessed rental rate for the gas bar and store, but is disputing the assessed rental rate for each of the three categories of CRU space.

[17] The subject property is valued by using the capitalized income method wherein the three categories of CRU space are assessed at a rental rate of \$35, \$34 and \$32 per sq. ft. respectively.

[18] The Complainant requested the assessed rental rate be reduced from to \$29, \$27 and \$26 per sq ft. for the respective CRU categories.

1. Rental Rates

Complainant's Position

[19] The Complainant supported the request for a reduced rental rate with three strip shopping centre comparables; 16919-24 St SW, 7337 Sierra Morena Bv SW and 143 Macleod Tr SW. These centres are assessed at a rental rate of \$29, \$27 and \$26 per sq. ft. per respective CRU category except for 143 Macleod TR that is assessed at \$25 for each category.

Respondent's Position

[20] The Respondent argued that the subject property is superior to the Complainant's comparables in terms of maintenance, vacancy, location and rental rates.

[21] An analysis of the more recent leases of the subject property by respective CRU category was provided by the Respondent which shows rental rates ranging from \$27 to \$41 per sq ft. The respondent argued that the median rental rate of \$33.50, \$34 and \$34 per sq. ft. and the weighted mean of \$33.65, \$33.86 and \$32.73 per sq. ft. support the assessed rental rates for the respective CRU categories. Also, this information supports the fact that the subject is superior to the Complainant's comparables and therefore the class of A+ is justified versus the Complainant's comparables that are classed A2.

Board's Reasons

[22] The Board is not convinced to change the rental rates for each of the CRU categories as requested by the Complainant. The Board finds the Complainant's comparables are not sufficiently similar to the subject to infer the same rate for the subject. These comparables are of a lesser quality than the subject and located a significant distance away from the subject to have any meaningful influence on the value of the subject. The Board finds the subject's lease rates are noticeably superior to the assessed rates of the comparables.

[23] The Board is convinced by the Respondent's analysis of the subject's more recent leases which support the subject's assessed rental rates. The analysis contains thirteen lease rates, of which twelve range from \$32 to \$41 per sq ft. Only one rate is at \$27 per sq ft. However the Board finds the ARFI, dated July, 2012, shows this rate was increased to \$33 per sq. ft. as of September, 2011. These rates are in distinct contrast to the comparables that range in assessed rates from \$29 to \$25 per sq ft. On perusal of the rent rolls and ARFI's provided for the subject by the Respondent, the Board finds this information clearly supports the assessed rental rates of the subject.

[24] Based on the foregoing the Board decided to make no change to the subject assessment.

Board's Decision:

[25] The Board's decision is to confirm the assessment at \$12,190,000.

DATED AT THE CITY OF CALGARY THIS 1st DAY OF November 2012.

for 
M. Chilibeck
Presiding Officer

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD**

Decision No. 046-2076-2012-P				Roll No.084099803
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Sub-Detail</u>
CARB	Retail	Strip Plaza	Income method	CRU Rental rates