

**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:

Shepard Development Corp.,(as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Hudson, PRESIDING OFFICER

S. Rourke, MEMBER

R. Kodak, 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: 200450039

LOCATION ADDRESS: 4916 130 AV SE

HEARING NUMBER: 63453

ASSESSMENT: \$30,640,000

This complaint was heard on the 11th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- D. Hamilton

Appeared on behalf of the Respondent:

- I. McDermott

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

There were no procedural or jurisdictional issues raised by the Parties.

Property Description:

The subject property is a 9.95 acre commercial parcel of land located in the East Shepard community at 4916 130 AV SE. The parcel is improved with 78,187 square feet of retail area within the South Trail Crossing Power Centre. The subject property is currently assessed based on the capitalized income approach to value at \$30,640,000(rounded).

Issues:

Should the Cap Rate Applied in the Capitalized Income Approach to Market Value Assessment be Increased to 7.75% from 7.25%?

Complainant's Requested Value: \$28,660,000(rounded)

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

Should the Cap Rate Applied in the Capitalized Income Approach to Market Value Assessment be Increased to 7.75% from 7.25%?

The Board finds that there is not sufficient evidence to conclude that application of the 7.75% cap rate proposed by the Complainant would result in a better estimate of market value for the subject property.

On a balance of probabilities, the Board has to be persuaded that application of the 7.75% cap rate to the assessed net operating income (NOI) of the subject property; results in a better estimate of market value for assessment purposes.

Both Parties used similar Crowfoot Power Centre property sale comparable information to arrive at their conclusions with respect to a "typical cap" rate. However, the Complainant used "actual" rent rates to calculate potential gross income (PGI) for each of the comparable properties at the time of sale, while the Respondent used "typical" rent rates. Both Parties then used "typical" allowances for vacancy, vacant space shortfall, and non-recoverable expenses, to calculate NOI for each property. NOI was then related to the sale price of each comparable to arrive at a cap rate for each sale. The median of the resulting cap rates was then advanced as "typical" for the Power Centre stratum of properties, including the subject.

The Board was not completely comfortable with the process employed by the Respondent to arrive at the calculation of NOI. However, the inconsistent use of actual and typical values by the Complainant was a more significant concern. Mixing actual and typical values may result in an estimate of market value which reflects a lease fee estate value, rather than the fee simple estate value, required by the legislation and regulations in Alberta.

The Respondent also submitted a Power Centre Capitalization Rate Assessment to Sale Ratio (ASR) Chart (page 244 of Exhibit R1). The Chart compares the 2011 ASR results for each of the sale comparable properties; based on applying the proposed cap rate, and the assessed cap rate, to the assessed NOI. The median ASR is .95 using the assessed 7.25% cap rate; and the median ASR is .83, using the proposed 7.75% cap rate. Given that the quality standard is .95 to 1.05, the evidence does not support the change in cap rate proposed by the Complainant.

Board's Decision: The assessment is confirmed at \$30,640,000

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF NOVEMBER 2011.



T. B. Hudson
Presiding Officer

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

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

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.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Issue</u>
CARB	Retail	Power Centre	Income approach	Cap Rate