

**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:**

***LOBLAW PROPERTIES WEST INC, as represented by Altus Group, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***R. Glenn, PRESIDING OFFICER***

***R. Roy, MEMBER***

***D. Julien, 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: 156164006**  
**LOCATION ADDRESS: 36 SHAWVILLE BV SE**  
**HEARING NUMBER: 63953**  
**ASSESSMENT: \$22,430,000**

This complaint was heard on the 9th day of November, 2011 at the office of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 3.

Appeared on behalf of the Complainant: Brendan Neeson ( Agent )

Appeared on behalf of the Respondent: Paul Sembrat ( Assessor )

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

No issues of procedure or jurisdiction were raised.

**Property Description:**

The subject is a 11.34 Acre Power Shopping Centre, with a rentable area of 160,516SF, carrying on business as a Real Canadian Superstore, constructed in 1999, and located just off Macleod Trail South in the community of Shawnessy.

**Issues:**

Whether the subject property is properly assessed, in light of queries regarding:

1. The Capitalization Rate of the subject
2. The Rental Rate of Retail stores on the subject property

**Complainant's Requested Value:**

\$14,870,000

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

The within matter was heard shortly after the hearings for the properties located at 5733 Signal Hill CE SW, 5989 Signal Hill CE SW and 5478 Signal Hill CE SW ( those decisions reported at: CARB #2814-2011-P, CARB #2815-2011-P and CARB #2816-2011-P respectively ). The parties mutually requested that all the argument and evidence provided at those previous hearings also be applied to the decision on the subject property. The Board agreed to do so.

Little detail regarding the size and fixturing of the subject buildings was provided by either party. The overall argument presented by the parties dealt mainly with the methodology used to arrive at the subject assessment and the requested assessment respectively.

The Complainant requested that the subject assessment of \$10/SF be reduced to \$8/SF, for the big box portion (153,825 SF) of the subject property. They also seek an increase in the Cap rate from the current 7.25% to 7.75%. This is based on an Income Approach Valuation.

The Complainant argues that the Respondent uses typical income for their assessment. They go on to note that all the inputs other than rent are the same. So, they argue, the real issue here is rent. The Complainant confirms that they use the most recent median rent figures. They carry on saying vacant space should be valued at median rent figures.

They also note that there should be a correction in the rentable area of the main floor of the big box premises, in that it is actually 138,079SF, not 145,110SF as was used for the subject assessment.

The Complainant goes on to argue that with respect to this property, the Respondent in their equity comparables relies on a non-arms length lease, reduces the number of Respondent's comparables to just one. The Complainant also discusses the Capitalization Rate in substantial detail.

The Respondent in cross examination argues that the Complainant's position on the Cap Rate has been argued and adjudicated several times previously, and that effectively, it is beyond question because it is settled at the rate used for the subject assessment.

The Respondent's main argument is the difference between the Fee Simple Estate versus the Leased Fee Estate. They say the Complainant is arguing a Leased Fee Approach, and in so doing, they are mixing actual and typical rates. The Respondent says that the two approaches cannot be compared. Further, the Respondents state that in all 7 power centre arguments where the Leased Fee Approach has been previously presented, it has been rejected.

They carry on to state that even when the Complainant comments on the Respondent's cap rate approach, they are mixing actual and typical values. Further, the Respondents state that there is no real lease information in the Complainant's evidence for them to respond to.

Based on this reasoning, the Respondent argues that there is no substantive, qualitative evidence in the Complainant's presentation. A single indicator cannot be relied upon to establish typical market value, and they say there is little else for them to respond to. In addition, the Respondent argues that the Complainant cannot take a single component of a property and compare it to the whole property, like they have done with some of their comparables

The whole argument generally is somewhat protracted, but little if any substance is added to the above noted presentations by additional argument, such as the introduction of the concept of the Co-efficient of Dispersion in the Complainant's Rebuttal.

Based on the whole argument and all of the evidence before it, the Board found that there is no support for the changes requested by the Complainant in the rental rates, nor the Cap Rate.

The Board finds that the Complainant did mix actual and typical parameters to come up with their requested result. This is not an acceptable method. The Board also finds that the Respondent's approach was much more compelling and consistent, based on the fact that only typical values were used to arrive at their assessment figures.

The Board is not convinced by any of the presentations that the subject assessment is incorrect or, unfair, and accordingly, the assessment is confirmed, with the exception of the needed size correction, which when properly calculated into the assessment would mean a reduction down to : \$21,490,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF NOVEMBER, 2011.



R. Glenn  
Presiding Officer

**APPENDIX "A"**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent Disclosure
4. R2	Respondent Disclosure part 2

*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 MGB Administrative Use Only*

<i>Decision No. 2757-2011-P      Roll No.156164006</i>				
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Power Centre	Income Approach	Cap Rate and Rental Rate