Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act (MGA)*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

Calgary Cooperative Association Limited
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
P. Charuk, BOARD MEMBER
R. Kodak, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER: 051191708

LOCATION ADDRESS: 2520 52 ST NE

FILE NUMBER: 71449

ASSESSMENT: $10,230,000

This complaint was heard from the 20th day of June, 2013 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:

- *K. Fong*

Appeared on behalf of the Respondent:

- *B. Thompson*
- *J. Lepine*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject property is a neighbourhood shopping centre. According to the information provided, the property contains three buildings, two of which were constructed in 1977 and one in 2012. The buildings have an assessed total size of 59,560 square feet (sf). Two of the buildings have quality ratings of C and one has a B quality rating. The buildings are situated on an assessable land area of 261,232 sf.

[3] The subject is assessed using the Income Approach to value by applying various market net rental rates to each sub component space of the buildings, which include an automotive car wash, a fast food restaurant, gas bar and supermarket spaces. Collectively, a potential gross income (PGI) of $752,940 is calculated. All spaces include allowances for 5.00% vacancy rates (1% for the supermarket space), operating costs of $20.50 and 1.00% non-recoverable rates. The resulting calculation for net operating income (NOI) is capitalized for assessment purposes using a 7.00% capitalization rate (cap rate).

Issues:

[4] The Complainant addressed the following issues at this hearing:

a) The assessed cap rate applied in the Income Approach to value should be increased to 7.50%.

b) The assessed market rental rate applied to the fast food restaurant space should be adjusted to $20.00 per sf from $32.00 per sf.

Complainant's Requested Value: $9,190,000

Board's Decision:

[5] The complaint is denied and the assessment is confirmed at $10,230,000.

Legislative Authority, Requirements and Considerations:

[6] As in accordance with *MGA 467(3),* a CARB *must not alter any assessment that is fair and equitable, taking into consideration*

a) *The valuation and other standards set out in the regulations,*

b) *The procedures set out in the regulations, and*

c) *The assessments of similar property or businesses in the same municipality.*

Position of the Parties

ISSUE 1: The assessed cap rate applied in the Income Approach to value should be increased to 7.50%.

Complainant's Position:

The Complainant requested that all evidence and argument made on this issue in hearing file #72675 be brought forward to this hearing. Therefore, the 242 page disclosure document entitled "Community – Neighbourhood Shopping Centre Cap Rate Analysis" that was entered as "Exhibit C2" in hearing file #72675 and the 399 page document entitled Community – Neighbourhood Shopping Centre Cap Rate Historical Data" that was entered as "Exhibit C3" in hearing file #72675 shall be brought forward to this hearing. The Complainant along with Exhibits C2 and C3 from file #72675 provided the following evidence and argument with respect to this issue:

[7] Two charts corresponding to two methodologies with regards to cap rate analysis. Both methodologies involved the analysis of the sales of five neighbourhood shopping centres. They include:

a) Chinook Station, BMO at 6550 Macleod Trail SW with a sale date of March 3, 2012 and a sales price of $4,250,000,

b) Southview Plaza at 3301 17 Ave. & 1819 33 St. SE with a sale date of December 30, 2011 and a sales price of $2,700,000,

c) Macleod Trail Plaza at 180 94 Ave. SE with a sale date of August 18, 2011 and a sales price of $33,750,000,

d) Pacific Place Mall at 999 36 St. SE with a sale date of May 27, 2011 and a sales price of $44,000,000, and

e) Sunridge Sears Centre at 3320 Sunridge Way NE with a sale date of January 19, 2011 and a sales price of $12,600,000.

[8] The first methodology, "Cap Rate Method I", involved the derivation of a median cap rate among the five sales by applying the same market rental rates, vacancy rates, operating costs, and non-recoverable rates as was used by the Respondent in developing their assessment. The key difference was that the derivation of the cap rate on each sale was calculated by dividing the assessed NOI by the actual sales price of the respective neighbourhood shopping centres, rather than dividing the assessed NOI by the respective assessed value, as was done by the Respondent. The median rate derived under this methodology was 6.87%.

[9] The second methodology, "Cap Rate Method II", used guidance from the February, 1999 Alberta Assessors Association Valuation Guide (AAAVG) that involved the derivation of a median cap rate among the five sales by applying "typical" market rental rates as calculated by the Complainant, to the various spaces of each of the neighbourhood shopping centres. The AAAVG guided this calculation with the following recommendations:

a) *For most tenants the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of "market" rents are (in order of descending importance):*

   i. *Actual leases signed on or around the valuation date.*

   ii. *Actual leases within the first three years of their term as of the valuation date.*

   iii. *Current rents for similar types of stores in the same shopping centre.*

   iv. *Older leases with active overage rent or step-up clauses.*

b) *As a secondary source of rent information, and as a check on the rents derived from the actual rent rolls, the rental rates can be compared to the rents established for similar tenants in other similar properties.*

c) *If comparable information is not available, it may be necessary to analyze the existing lease and interview the owner and tenant(s) to determine what the current rent on the space should be.*

[10] In the Cap Rate Method II, the Complainant used the same vacancy rates, operating costs, and non-recoverable rates that were used by the Respondent in developing their assessment. The derivation of the cap rate on each sale was calculated by dividing the "typical" NOI by the actual sales price of the respective neighbourhood shopping centres, rather than dividing the assessed NOI by the respective assessed value, as was done by the Respondent. The median rate derived under this methodology was 7.63%.

[11] Various documentation surrounding the sale and respective assessments of each neighbourhood shopping centre. The following information is highlighted from that documentation:

a) Chinook Station, BMO:

   i. A 2012 Assessment Summary stating that the property was assessed using an Income Approach to value, using one building with an A2 quality rating that was constructed in 2012.

   ii. The 2012 Income Approach assessment valuing the property at $3,880,000 using a 7.00% cap rate.

b) Southview Plaza:

   i. A 2011 Assessment Summary of 3301 17 Ave. SE stating that the property was assessed using a Sales Approach to value, using one building with an C quality rating, that was constructed in 1958.

ii. A preliminary 2011 Income Approach assessment valuing the property at $2,520,000 using a 7.25% cap rate.

iii. A 2011 Assessment Summary of 1819 33 St. SE stating that the property was assessed using an Income Approach to value, using one building with a C- quality, that was constructed in 1970.

iv. A 2012 Income Approach assessment valuing the property at $1,760,000 using a 7.25% cap rate.

c) Macleod Trail Plaza:

i. A 2011 Assessment Summary stating that the property was assessed using an Income Approach to value, using four buildings with B quality ratings, three of which were constructed in 1974 and one in 1987.

ii. A 2012 Income Approach assessment valuing the property at $31,970,000 using a 7.25% cap rate.

d) Pacific Place Mall:

i. A 2011 Assessment Summary stating that the property was assessed using an Income Approach to value, using two buildings with A2 and B+ quality ratings that were constructed in 1980.

ii. The 2012 Income Approach assessment valuing the property at $34,460,000 using a 7.25% cap rate.

e) Sunridge Sears Centre:

i. A 2011 Assessment Summary stating that the property was assessed using an Income Approach to value, using two buildings with B- quality ratings that were constructed in 2002.

ii. The 2012 Income Approach assessment valuing the property at $11,380,000 using a 7.25% cap rate.

[12] In addition to the above sales comparables, the Complainant provided five additional sales of neighbourhood shopping centres that occurred from January, 2009 to December, 2009. Again, two charts were provided corresponding to the two aforementioned methodologies with regards to cap rate analysis. Both methodologies involved the analysis of the sales of ten neighbourhood shopping centres, the five mentioned above and the five 2009 sales, which include:

a) Calgary East Retail Centre at 2929 Sunridge Way NE with a sale date of December 18, 2009 and a sales price of $19,585,500,

b) Braeside Shopping Centre at 1919 Southland Drive SW with a sale date of December 14, 2009 and a sales price of $15,275,000,

c) Cranston Market at 356 Cranston Road SE with a sale date of October 26, 2009 and a sales price of $32,000,000,

d) McKnight Village Mall at 5220 Falsebridge Gate NE with a sale date of May 1, 2009 and a sales price of $19,270,000, and

e) Chinook Station, Office Depot at 306 Glenmore Trail SW with a sale date of January 20, 2009 and a sales price of $6,944,450.

[13] The "Cap Rate Method I" methodology derived a median cap rate of 7.63% among the ten neighbourhood shopping centre sales.

[14] The "Cap Rate Method II" methodology derived a median cap rate of 7.76% among the ten neighbourhood shopping centre sales.

[15] Again, various documentation surrounding the sale and respective assessments of each of the additional five 2009 neighbourhood shopping centre sales was provided in a similar fashion to that provided with the five post 2009 neighbourhood shopping centres.

Respondent's Position:

The Respondent provided a 669 page document entitled "Assessment Brief" that was entered as Exhibit R1, however, the Respondent requested that all evidence and argument made on this issue in hearing file #72675, be brought forward to this hearing. Therefore, the 680 page disclosure document that was entered as "Exhibit R1" in hearing file #72675 shall be brought forward to this hearing. The Respondent along with Exhibit R1 from file #72675 provided the following evidence or argument with respect to this issue:

[16] The 2013 Income Approach to value assessment of the subject using a cap rate of 7.00%.

[17] A copy of an Assessment Request for Information (ARFI) dated April 3, 2013 signed by a representative of the owner of the Chinook Station, BMO sales comparable indicating that the BMO lease included 35,000 sf of the accompanying land (a land lease) and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[18] A copy of the RealNet and Commercial Edge land transaction summary of the Chinook Station, BMO sales comparable indicating that the property was being utilized as an asphalt surface parking lot by the vendor and vacant at the time of sale. The BMO building was built on the property subsequent to the sale and therefore should not be used as a neighbourhood shopping centre sale comparable for a cap rate study.

[19] A copy of a City of Calgary Non-Residential sales Questionnaire signed by a representative of the owner of the Chinook Station, BMO sales comparable again indicating that the sale was vacant land, not brokered and required $170,000 in utility servicing subsequent to the sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[20] A copy of the RealNet land transaction summary of the Southview Plaza sales comparable at 3301 17 Ave. SE indicating that the property was vacant at the time of sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[21] A copy of an ARFI dated March 23, 2010 signed by a representative of the owner of the Southview Plaza sales comparable at 3301 17 Ave. SE indicating that the property was owner occupied prior to its sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[22] A copy of the RealNet land transaction summary of the Southview Plaza sales comparable at 1819 33 St. SE indicating that the property was sold separately from the

adjoining property at 3301 17 Ave. SE which was vacant at the time of sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[23] A neighbourhood shopping centre cap rate summary chart involving the analysis of the sales of three neighbourhood shopping centres (Macleod Trail Plaza, Pacific Place Mall and Sunridge Sears Centre), which were also used by the Complainant. The median cap rate calculated was 6.87%.

[24] Various copies of Altus Group documentation on the leased spaces of the post 2009 Neighbourhood Shopping Centre sales comparables. The documentation indicated that Altus often sought lower rates on complaints involving market lease rate issues then sought higher rates for the same spaces when they do a cap rate study under Cap Rate Method II.

[25] A 2013 Neighbourhood Shopping Centre Assessment to Sales Ratio (ASR) test comparing a 7.50% (Complainant's calculation) cap rate to a 7.00% (Respondent's calculation) cap rate. Using the five post 2009 sales comparables a 7.00% cap rate produced an ASR of 0.9674, while the 7.50% cap rate produced an ASR of 0.9028. Using the three common sales comparables a 7.00% cap rate produced the same ASR of 0.9674, while the 7.50% cap rate produced the same ASR of 0.9028.

CARB Findings:

The CARB finds the following with respect to this issue:

[26] The Chinook Station, BMO sales comparable is not accepted as a comparable neighbourhood shopping centre because it was unserviced vacant land at the time of sale and was not exposed to the open market. Further, the rental rate achieved at this site and used by the Complainant in his Cap Rate Method II is substantially higher than what one might expect at other retail bank sites.

[27] The Southview Plaza sales comparable is not accepted as a comparable neighbourhood shopping centre because it was sold off separately into two separate sales transactions; one being the former Safeway or anchor tenant site and one being the site of the various CRUs. The resulting cap rate calculated substantiates this dissimilarity to other neighbourhood shopping centre comparables.

[28] The median cap rate calculated under Cap Rate Method I for the five post 2009 sales comparables substantiates and supports the calculated median cap rate of the Respondent and does not support the median cap rate calculated by the Complainant under Cap Rate Method II.

[29] The 2009 neighbourhood shopping centre sales comparables are deemed by the CARB to be dated. Although there is no timeline or legislative restriction to limit a cap rate analysis to sales comparables within a three year period, the CARB finds that 2009 was a different market for neighbourhood shopping centres. The CARB finds that cap rates for the 2009 sales comparables were clearly differentiated from post 2009 sales comparables in both of the Complainant's cap rate methodologies showing a much tighter or smaller range and higher medians. In addition, the AAAVG guides that in the development of market rental rates, lease comparables *of "Actual leases within the first three years of their term as of the valuation date"* can be used whenever actual lease rates around the valuation date are not available. The CARB concludes from this that if lease rates beyond three years should not be used to establish market rental rates, then sales comparables beyond three years are less reliable in establishing cap rates when more current ones are available.

[30] The ASR analysis as calculated by the Respondent is accepted and is a clear indication

that the ASRs achieved using a 7.50% cap rate, as calculated by the Complainant under Cap Rate Method I, produces inferior results when compared to the ASR's achieved using the Respondent's 7.00% cap rate.

Position of the Parties

ISSUE 2: The assessed market rental rate applied to the fast food restaurant space should be adjusted to $20.00 per sf from $32.00 per sf.

Complainant's Position:

The Complainant provided a 81 page disclosure document entitled "Evidence Submission" that was entered as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence and argument with respect to this issue:

[31] A copy of the 2013 pre-amended Income Approach assessment showing that prior to an amended assessment, the subject's fast food restaurant space had an assessed market net rental rate of $20.00 per sf.

[32] A copy of an Assessment Request for Information (ARFI) dated August 21, 2012 showing that the subject's Tim Horton space was in fact leased at a rental rate of $20.00 per sf.

[33] A copy of the 2012 Income Approach assessment of the subject, showing that the subject's fast food restaurant space had an assessed market net rental rate of $17.00 per sf.

[34] A copy of a 2012 City of Calgary restaurant equity comparables. The chart showed that the subject's Tim Horton space was equitably assessed a market rental of $17.00 per sf like four other fast food chains such as KFC, C B Drive In, Pizza Hut and Phil's Restaurant.

[35] A copy of a City of Calgary "CITYonline building permits status for the subject property. The information therein revealed that the subject's Tim Horton's space had been renovated in 2005 for an estimated value of $300,000.

[36] Argument that the subject's restaurant space has been upgraded in the amended 2013 assessment to a B class building from a C class building with no justification because no modifications had been made to the space for many years.

Respondent's Position:

The Respondent along with Exhibit R1 provided the following evidence and argument with respect to this issue:

[37] A 2013 fast food restaurant rental rate analysis of A & B class quality buildings. The chart of lease comparables showed lease rates ranging from $22.00 to $53.33 per sf with a median of $32.00 per sf. However, the Complainant admitted that the $53.33 lease comparable was not an appropriate comparable, and when deleting it from the analysis the median was adjusted to $31.50 per sf. During testimony the Respondent revealed that six Tim Horton comparables were included in the chart.

[38] A 2013 fast food restaurant rental rate analysis of C & D class quality buildings. The chart of lease comparables showed lease rates ranging from $15.48 to $21.00 per sf with a

median of $20.00 per sf. During testimony the Respondent revealed that there were no Tim Horton comparables in the chart.

[39] Argument that although the subject's Tim Horton's space had not been renovated since 2005, it has been incorrectly classed as a C class building since that time. The 2013 amended B class assessment simply corrects that longstanding error and makes it comparable to other Tim Horton spaces.

CARB Findings:

The CARB finds the following with respect to this issue:

[40] That the subject's Tim Horton's space is likely most comparable to other B class Tim Horton spaces.

Board's Reasons for Decision:

[41] The ASR test as provided by the Respondent supported the assessment parameters used by the Respondent in his Income Approach valuation. The Complainant neither refuted the Respondent's ASR analysis, nor provided one of his own that would show that a 7.50% cap rate produces superior ASR results. In the absence of better and more supportive evidence to the contrary, the Respondent's cap rate prevails.

[42] The CARB chose to accept the argument provided by the Respondent that the subject's Tim Horton space has been corrected to a B class quality building to equitably compare it to other B class Tim Horton spaces. The Complainant provided no comparable spaces like other Tim Horton locations that were classed as C quality. The Complainant's basic argument was that once the space was classed as a C class building by the Respondent, it should not be changed unless renovations have taken place in the ensuing year or years. This basic argument is rejected by the CARB given the evidence provided by the Respondent of comparability to other B class Tim Horton spaces.

DATED AT THE CITY OF CALGARY THIS 18th **DAY OF** July **2013.**

[redacted]

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. C3	Complainant Disclosure
4. 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.

(For MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Neighbourhood mall	Income Approach	Lease Rates, Cap Rate