



## **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:**

***Canada Safeway Limited (as represented by Altus Group Limited), COMPLAINANT***

**and**

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

**before:**

***B. Horrocks, PRESIDING OFFICER***

***B. Bickford, BOARD MEMBER***

***B. Jerchel, 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:

<b>ROLL NUMBER:</b>	<b>027120005</b>
<b>LOCATION ADDRESS:</b>	<b>33 CASTLERIDGE BV NE</b>
<b>FILE NUMBER:</b>	<b>72431</b>
<b>ASSESSMENT:</b>	<b>\$16,160,000</b>

This complaint was heard on the 17th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- A. Iazard (Altus Group Ltd.)
- B. Neeson (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- S. Turner (City of Calgary)

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

- [1] There were no concerns with the Board as constituted.
- [2] Both parties indicated they have visited the site.
- [3] The parties have discussed the file.
- [4] The parties requested that all evidence and arguments from Hearing 72718 with respect to cap rate and rental rate for 'B' Quality grocery stores be carried forward to this Hearing.
- [5] The Respondent objected to the introduction of the Complainant's rebuttal document which is labelled C-6. The Respondent submitted that the entire document is new evidence and should not be heard. The Complainant submitted that the City has used sales for capitalization (cap) studies in other hearings where the sales were not "brokered" or where the properties were vacant at the time of sale. The Board reviewed the rebuttal C-6 after both parties had presented their evidence. The Board finds the information provided in the rebuttal (C-6) is specifically to rebut the Respondent's position that it doesn't consider non brokered sales and it doesn't consider sales of vacant properties when developing a cap rate. The Board concluded that the rebuttal submission would be allowed and that the Board would give it the appropriate weight.

**Property Description:**

- [6] The subject property is a 8.75 acre parcel located in the Westwinds community in NE Calgary. The property is improved with a 53,436 square foot (sq.ft.) Safeway supermarket with an additional 660 sq. ft. of mezzanine space, CRU spaces, a bank and a pad restaurant. The pad restaurant was constructed in 1991 and is considered to be A- Quality while the remaining improvements were constructed in 1991 and 2003 and are considered to be 'B' Quality. The Subproperty Use is CM0203 Retail - Shopping Centres – Neighbourhood. The subject is assessed utilizing the Income Approach to value.

**Issues:**

[7] The Assessment Review Board Complaint Form identified "an assessment amount" and "an assessment class" as the Matters For a Complaint. In addition, the Complaint Form contained 5 Grounds for Appeal. At the outset of the hearing, the Complainant advised that there were four outstanding issues, namely: "the assessed capitalization rate is incorrect and should be increased to 7.5%", "the assessed rental rate for 'Supermarket' space at the subject should be no higher than \$13 psf", "the assessed rental rate for 'CRU space 1,001 – 2,500 sf' at the subject should be no higher than \$24 psf" and "the assessed rental rate for 'Restaurant' space at the subject should be no higher than \$20 psf".

**Complainant's Requested Value:** \$12,830,000 (Complaint Form)  
\$13,210,000 (Hearing)

**Board's Decision:**

[8] The assessment is reduced to \$14,150,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner, apply the valuation and other standards set out in the regulations, and follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that

- 2 An assessment of property based on market value
  - (a) must be prepared using mass appraisal,
  - (b) must be an estimate of the value of the fee simple estate in the property, and
  - (c) must reflect typical market conditions for properties similar to that property.
- 4(1) The valuation standard for a parcel of land is
  - (a) market value, or
  - (b) if the parcel is used for farming operations, agricultural use value.

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

**Issue 1:** What is the cap rate to be applied in the Income Approach to value, for assessment purposes?

**Complainant's Position:**

[9] The Complainant's Disclosure is labelled C-1(72718).

[10] The Complainant, at page 34, provided two tables titled 2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I and 2012 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method II, noting Method I utilizes the application of assessed income as prepared by the City of Calgary ABU, while method II utilizes the application of typical market income as prescribed by the 'AAAVG' and 'Principles of Assessment'. Both tables include information on the same 5 sales which occurred during the period January 19, 2011 through March 3, 2012. The Complainant noted that Method I yielded a mean cap rate of 7.63% and a median cap rate of 6.87% while Method II yielded a median cap rate of 7.63% and a weighted mean cap rate of 7.30%. The Complainant acknowledged that Method I is utilized by the City in its' analysis. The Complainant requested a cap rate of 7.50%.

[11] The Complainant, at page 56, provided two tables, each titled 2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I, noting the bottom table contained the addition of those sales that were utilized to determine the cap rate for the previous taxation year. When all of the sales are taken together, the mean cap rate is calculated to be 7.84% and the median cap rate is 7.63%.

[12] The Complainant, at page 58, repeated the same exercise utilizing cap rate Method II which resulted in a weighted mean of 7.53% and a median cap rate of 7.76%.

[13] The Complainant submitted additional documents labelled C2A, C2B, C3A, and C3B in support of its cap rate analysis.

**Respondent's Position:**

[14] The Respondent's Disclosure is labelled R-1(72718).

[15] The Respondent, at page 149, provided a table titled 2013 Neighbourhood, Community Centre Capitalization Rate Summary which contained details of 3 sales which occurred in the period January 19, 2011 to August 18, 2011, noting these 3 sales are common to both parties' analysis. The 3 sales have a median cap rate of 6.87% and an average cap rate of 6.80%, while the assessed cap rate is 7.00%.

[16] The Respondent, starting at page 14, provided supporting materials with respect to its argument that the 2 additional sales provided by the Complainant did not represent the sale of typical neighbourhood shopping centres and as a result should not be included in the cap rate analysis.

**Complainant's Rebuttal Position:**

[17] The Complainant's Rebuttal Disclosure, labelled C-6(72718), provided information to demonstrate that the City, in the preparation of other cap rate analysis, has been inconsistent with respect to its use of "non brokered" non listed sales and sales of unoccupied properties.

**Board's Findings:**

[18] The Board finds the two additional sales provided by the Complainant are not representative of typical neighbourhood shopping centre sales and should not be used in a cap rate analysis. The details provided for the sale at 6550 MacLeod Trail SW (Chinook Station BMO) were not clear as to what actually transacted. Was it a vacant land sale, a partially improved sale or an improved sale? The sales of 3301 17 AVE SE and 1819 33 ST SE (Southview Plaza) had the same vendor and two different purchasers. More importantly, the anchor property was 100% vacant and the CRU property was 40% vacant and as such it is not a typical scenario.

**Issue 2:** What is the market net rental rate for 'B' Quality Grocery Stores, for assessment purposes?

**Complainant's Position:**

[19] The Complainant, at page 28 (C-1)(72718), provided a table titled Grocery Leasing Analysis 'B = Average Stores'. The table contains details of 6 leases with start dates ranging from March 1, 2009 to December 1, 2011. The rental rates range from \$6.00 to \$17.00/sq.ft., with a median of \$13.25/sq.ft.. The Complainant noted the Respondent agrees with the information for 8338 18 St. SE, 2717 Sunridge WY NE and 8120 Beddington Blvd. NW. The Complainant requested an assessed rate of \$13.00/sq.ft.

[20] The Complainant in C-4(72718) provided information supporting its position that the 3 leases in contention are actually lease renewals.

[21] The Complainant, at page 57 (C-4)(72718), provided the Property Assessment Summary Report for 1221 Canyon Meadows Drive SW submitting the Co-Op grocery store should be in the 'A' Quality lease analysis instead of the 'B' analysis.

**Respondent's Position:**

[22] The Respondent, at page 264(R-1)(72718), provided a table titled 2013 Supermarket Rental Rate Analysis Revised. The table contains 4 leases, 3 of which are common to the Complainant's analysis, and one additional lease at 1221 Canyon Meadows Drive SE. The leases range from \$13.50 to \$17.50/sq.ft. with a median of \$14.75/sq.ft. The Respondent noted the assessed rental rate for 'B' quality grocery stores is \$15.00/sq.ft.

[23] The Respondent, starting at page 265(R-1)(72718), provided information supporting its argument that the 3 additional leases provided by the Complainant should not be used in the analysis because they were all dated (old) leases. Specifically, Westbrook Mall was a 2006 lease, Glenmore Landing was a 1985 lease and Lakeview Plaza was a 1994 lease.

**Board's Findings:**

[24] The Board finds the 3 leases contested by the Respondent, are renewals, and can be used in the analysis and the property located at 1221 Canyon Meadows Drive SE is an 'A' Quality and should not be used in the analysis. As a result, the Complainant's evidence which supports the \$13.00/sq.ft. request is accepted as presented.

**Issue 3:** What is the market net rental rate for 'CRU space 1,001 – 2,500 sq. ft.' in the subject, for assessment purposes?

[25] The Respondent provided a recommendation labelled R-2 which was accepted by the Complainant. The recommendation assigned the rate of \$24.00/sq.ft. to the CRU space 1,001 – 2,500 sq.ft.

**Issue 4:** What is the market net rental rate for 'Pad Restaurant Dining Lounge' space in the subject, for assessment purposes?

**Complainant's Position:**

[26] The Complainant's Disclosure is labelled C-1.

[27] The Complainant, at page 44, provided the Physical and Economic Characteristics/Quality Classification parameters used by the City to establish the 'Quality' classification for retail properties.

[28] The Complainant, at page 42, provided the Property Assessment Summary Report for 55 Castleridge BV NE noting everything in this neighbouring property is assessed 'B' quality. The Complainant submitted the subject, a former Pizza Hut should be equitably assessed the same 'B' quality.

[29] The Complainant, at pages 46 through 96, provided pictures and Property Assessment Summary Reports for a number of 'A' and 'B' Quality restaurants submitting the subject should be classified as a 'B' Quality and assessed at the revised rate of \$25.00/sq.ft.

**Respondent's Position:**

[30] The Respondent's disclosure is labelled R-1.

[31] The Respondent, at page 277, provided 3 tables titled 2013 Lease Comparables Pad Restaurant Revised, noting that 'A' Quality are assessed at the rate of \$31.00/sq.ft, 'B' Quality are assessed at the rate of \$25.00/sq.ft. and 'C' & 'D' Quality are assessed at the rate of \$18.00/sq.ft.

[32] The Respondent submitted that Pad Restaurants are analysed city wide using the parameters on page 44 of C-1, and that Location is the driving factor. The Respondent submitted the subject is in a better location.

**Board Findings:**

[33] The Board finds the subject is a 'B' Quality restaurant based on the equity comparables provided by the Complainant and should be assessed at the market net rental rate of \$25.00/sq.ft. The subject is surrounded by 'B' Quality retail, is the same age or older and has not been renovated.

**Board's Decision:**

[34] The cap rate is confirmed at 7.00%, after rejecting two of the Complainant's sales from the cap rate analysis. A review of the historical sales information also indicates a downward trend in cap rates. The market net rental rate for 'B' Quality grocery stores is reduced to \$13.00/sq.ft. after accepting the Complainant's evidence. The market net rental rate for CRU space 1,001 – 2,500 sq.ft. is \$24.00/sq.ft. as per the recommendation in R-2, and the market net rental rate for the Pad Restaurant is \$25.00/sq.ft. as supported by the Complainant's comparables.

[35] Inserting the rental rate of \$13.00/sq.ft. for the 'B' Quality grocery store, \$24.00/sq.ft. for CRU space 1,001 – 2,500 and \$25.00/sq.ft. for the Pad Restaurant in the Income Approach to value calculation, yields a net operating income (NOI) of \$991,177 which when capitalized at 7.00% results in a market value of \$14,159,671. The 2013 assessment is reduced to \$14,150,000.

DATED AT THE CITY OF CALGARY THIS 2nd DAY OF August 2013.



**B. Horrocks**

**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. R1	Respondent Disclosure
3. R2	Respondent Recommendation
4. C1,C2A,C2B,C3A,C3B,C4,C5,C6,C7	Complainant Disclosures (72718)
5. R1	Respondent Disclosure (72718)

*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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<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue(s)</b>
Retail	Neighbourhood Mall	Income approach	Cap rate & rent rates