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.

between:

865928 Alberta Ltd.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
P. Charuk, BOARD MEMBER
T. Livermore, 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: **049016702**

LOCATION ADDRESS: **2681 SUNRIDGE WY NE**

FILE NUMBER: **72708**

ASSESSMENT: **$1,530,000**

This complaint was heard on the 14th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *G. Jones*
- *V. LaValley*

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 *MGA*. 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 has subproperty use as a neighbourhood shopping centre. The property is occupied by a "Tim Hortons", a fast food restaurant. According to the information provided, the property contains one building that was constructed in 2001, has an assessed total size of 2,778 square feet (sf) and a quality rating of A-. The building is situated on an assessable land area of 26,803 sf and has a Land Use of C-COR3.

[3] The subject is assessed using the Sales Comparison Approach, valuing the entire property on the basis of its land value, with no value assessed for the improvement.

Issues:

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

a) The current assessment does not reflect the physical condition of the subject as of December 31, 2012.

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

Complainant's Requested Value: $1,090,000

Board's Decision:

[5] The complaint is rejected and the assessment is confirmed at $1,530,000.

Legislative Authority, Requirements and Considerations:

[6] As in accordance with *MGA, Section 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 current assessment does not reflect the physical condition of the subject as of December 31, 2012.

Complainant's Position:

[7] The Complainant provided a 265 page document entitled "Evidence Submission" that was entered into the hearing as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence and argument with respect to this issue:

[8] That the current Sales Comparison Approach assessment does not recognize the physical condition of the property as of December 31, 2012. In recognition of the subject's physical condition as of December 31, 2012, the Complainant offered an Income Approach valuation using a rental rate of $32.00 per sf applied to the subject's improvement space of 2,778 sf. The factors involved resulted in a net operating income (NOI) of $82,495, after consideration was given for allowances such as vacancy, operating costs and non-recoverables. The NOI was capitalized for valuation purposes using a 7.50% capitalization rate (cap rate). The cap rate used was atypical of what the Respondent has used in 2013 Income Approach valuations of similar properties and forms the basis of Issue 2 as outlined below.

[9] A copy of last year's CARB decision (1864/2012-P), which was in favour of using the Complainant's Income Approach valuation and formed the basis of subject's assessed value of $944,000 in 2012.

[10] Literature from Appraisal Institute of Canada highlighting highest and best use analysis. The documentation underscored that a highest and best use analysis must involve an assessment of "reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value".

[11] Literature from "Workshop 158 – Highest and Best Use" from a 2010 document from the International Association of Assessing Officers (IAAO). The following was highlighted: "The highest and best use of the property as currently inmproved will cease if the value of the land as vacant, plus the cost of removing the improvements, exceeds the property value as currently improved".

Respondent's Position:

[12] The Respondent provided a 147 page document entitled "Assessment Brief" that was

entered into the hearing as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[13] An Income Approach valuation using the same valuation parameters as was used by the Complainant with the exception of the cap rate. The NOI was capitalized for valuation purposes using a 7.00% cap rate. The Income Approach valuation using a 7.00% cap rate, resulted in a valuation of $1,170,000. Although this approach to valuation was not used by the Respondent in the subject's assessment, the differing cap rate forms the basis of Issue 2 as outlined below.

[14] A 2013 Commercial Land Values chart. The chart highlighted that C-COR land values were assessed as follows:

a) 3,000 sf @ $122.00 per sf

b) 3,001 to 20,000 sf @ $65.00 per sf

c) Remainder @ $10.00 per sf

[15] A chart of 2013 Comparable Commercial Land Sales. The chart contained seven C-COR comparable land sale properties with sale dates ranging from March 31, 2011 to June 22, 2012. Parcel sizes ranged from 2,367 sf to 63,079 sf. Time adjusted values varied from $30.55 per sf to $120.87 per sf with a median of $85.21 per sf.

[16] A chart of six equity comparables, including a neighbouring property, with parcel sizes ranging from 13,065 sf to 26,908 sf. The comparables had similar land uses as the subject with five C-COR2 and one C-COR3 being the neighbouring McDonalds comparable. The comparables were all assessed for their underlying land value and included the neighbouring McDonalds, a Phils, an A&W, a 7-11, a KFC and a Peters Drive-in.

CARB Findings:

[17] The CARB finds the following with respect to this issue:

[18] That the underlying value of the subject's land is greater that the current improvement's income producing potential.

ISSUE 2: The assessed cap rate applied in the Income Approach to value should be increased to 7.50%.

Complainant's Position:

[19] The Complainant requested that all evidence and argument made on this issue in hearing file #72212 be brought forward to this hearing. Therefore, the 241 page disclosure document entitled "Shopping Centre Capitalization Rate Analysis, Evidence Appendix" that was entered as "Exhibit C2" and the 400 page disclosure document entitled "Community – Neighbourhood Shopping Centre Capitalization Rate Historical Data, Evidence Appendix" that was entered as "Exhibit C4" in hearing file #72212 shall be brought forward to this hearing. The Complainant, along with Exhibits C1, C2 and C4, provided the following evidence and argument with respect to this issue:

[20] 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.

[21] 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 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. The median rate derived under this methodology was 6.87%.

[22] 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.*

[23] 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. The median rate derived under this methodology was 7.63%.

[24] 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 December 31, 2012 Assessment Summary Report 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 December 31, 2011 Assessment Summary Report 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 December 31, 2011 Assessment Summary Report 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 December 31, 2011 Assessment Summary Report 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 December 31, 2011 Assessment Summary Report 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 December 31, 2011 Assessment Summary Report 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.

[25] 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 seven neighbourhood shopping centres, being the aforementioned Pacific Place Mall and Sunridge Sears Centre 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 28, 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.

[26] The "Cap Rate Method I" methodology derived a mean cap rate of 7.69% among the seven neighbourhood shopping centre sales.

[27] The "Cap Rate Method II" methodology derived a median cap rate of 7.71% and a mean cap rate of 7.80% among the seven neighbourhood shopping centre sales.

[28] 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:

[29] The Respondent simply argued that although the Income Approach valuation was considered, it did not capture the underlying value of the land as though vacant. Therefore, the issue of cap rate from its standpoint is moot.

CARB Findings:

[30] The CARB finds the following with respect to this issue:

[31] That given the CARB finding under Issue 1 above, the issue of cap rate is moot.

Board's Reason for Decision:

[32] The CARB findings are consistent with highest and best use analysis as provided by the Complainant. That is, "The highest and best use of the property as currently improved will cease if the value of the land as vacant, plus the cost of removing the improvements, exceeds the property value as currently improved". The CARB has no reason to find fault with the land sales comprables offered by the Respondent. Indeed, the land sales comparables went largely uncontested by the Complainant. The Income Approach valuation in this case, was unable to capture the higher value of the underlying land as though vacant, as demonstrated by the Respondent using a 7.00% cap rate.

[33] The subject property is equitably assessed using the Sales Comparison Approach for land value only. The Respondent successfully demonstrated this in its equity comparison chart

using similar fast food properties on similar land sizes. Again, this equity comparison went largely uncontested by the Complainant.

[34] The Respondent demonstrated that the Income Approach valuation was considered, but when that approach failed to capture the higher value of the underlying land, the Sales Comparison Approach was used. The CARB agrees with the Respondent. Although the income producing improvement might be considered by a willing buyer, a willing seller would be unlikely to sell for a value demonstrated by the improvement's income potential that is lower than its underlying land value. In other words, the Income Approach valuation in this case fails to capture the fair market value of the subject.

DATED AT THE CITY OF CALGARY THIS 30th **DAY OF** September **2013.**

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2 from hearing file #72212	Complainant Disclosure
4. C4 from hearing file #72212	Complainant Disclosure
5. C3 from hearing file #72212	Complainant Rebuttal

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	Cap Rate