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:

FIRST CAPITAL (LAKEVIEW) CORPORATION
FCB MANAGEMENT SERVICES
(As represented by Altus Group)
COMPLAINANT

and

THE CITY OF CALGARY, RESPONDENT

before:

W. Krysinski, PRESIDING OFFICER
J. Pratt, BOARD MEMBER
P. Pask, 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:	**104032396**
LOCATION ADDRESS:	**6449 Crowchild Trail SW**
FILE NUMBER:	**72975**
ASSESSMENT:	**$17,710,000**

This complaint was heard on 28th day of August, 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:

- *C. Fong*

Appeared on behalf of the Respondent:

- *H. Yau*
- *C. Yee*
- *J. Lepine*

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

[1] There were no concerns from either party, respecting the panel representing the Board as constituted.

[2] Both parties requested that all capitalization rate (cap. rate) evidence and argument presented at Hearing #72410 be cross-referenced to the following Hearings: 72243; 72277; 72352; 72371; 72389; 72392; 72402; 72404; 72975; 73127; 73134.

[3] As no further jurisdictional or procedural matters were raised at the outset of the Hearing, the Board proceeded to hear the merits of the complaint.

Property Description:

[4] The subject property comprises a B+ quality Neighbourhood Shopping Centre, known as Lakeview Plaza, located at 6449 Crowchild Tr. SW. Constructed in 1961, it is situated in the community of Lakeview. Total net rentable area for the subject property is 64,329 square feet (sf). The improvements are situated on a 5.53 acre parcel of land which is zoned Commercial-Community 1

Issues:

[5] The Complainant addressed the following issues at the Hearing:

The assessed value of the subject property is incorrect, due to the following:

- The assessed capitalization rate applied in the income approach to value calculations is incorrect at 7.0%, and should be increased to 7.5%.
- The assessed B Quality Grocery store rate is incorrect at $15.00. The correct rate should be $13.00.
- The assessed CRU rate (6,001 – 14,000sf) is incorrect at $22.00. The rate should be lowered to $15.00.

Complainant's Requested Value: $15,200,000.

Board's Decision

[6] The complaint is allowed in part, and the Board reduces the assessment to $17,350,000.

Legislative Authority, Requirements and Consideration

[7] The Act, Section 460.1(2), subject to Section 460(11), specifies 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 referred to in Subsection 460(1)(a).

Position of the Parties

Issue 1: Capitalization Rate

Complainant's Position:

[8] The Complainant is arguing that the Capitalization rate of 7.0% results in assessments that are not reflective of market value as at July 1, 2012. Altus is requesting that the capitalization rate for neighbourhood shopping centres be changed to 7.5%.

[9] In support of this position, the Complainant has provided two distinct methodologies of capitalization rate analyses. Capitalization rate Method I utilizes the application of assessed income as determined by the City of Calgary, while capitalization rate Method II calculates typical market income in a manner purported to be prescribed by the Alberta Assessor's Valuation Guide (AAVG) and the "Principles of Assessment" training program. Method I was indicated by the Complainant as the method utilized by the City in its analysis.

[10] The Complainant provided 2 capitalization rate analysis charts of sales that occurred in the period January 19, 2011 through March 3, 2012 [C-1, pg. 32]. The sales respecting analysis Method I and Method II are summarized below:

	2013 NBHD-Community Shopping Centre Analysis - Method I						
S/C Name	Address	Sale Date	Area	Rate	N.O.I.	Sale Price	C/R
Chinook Station	6550 Macleod Tr. SE	03/03/2012	7,182	42.00	271,921	$4,250,000	6.40%
Southview Plaza	3301 17 Ave. SE	30/12/2011	30,375	10.71	305,510	$2,700,000	11.32%
MacLeod Tr. Plaza	180 94 Ave SE	18/08/2011	123,766	19.90	2,318,302	$33,750,000	6.87%
Pacific Plaza Mall	999 36 St. NE	27/05/2011	188,537	17.96	3,078,515	$44,000,000	7.00%
Sunridge Sears Centre	3320 Sunridge Wy. NE	19/01/2011	60,514	14.41	825,181	$12,600,000	6.55%
						Mean:	7.63%
						Median:	6.87%

2013 NBHD-Community Shopping Centre Analysis - Method II							
S/C Name	Address	Sale Date	Area	Rate	N.O.I.	Sale Price	C/R
Chinook Station	6550 Macleod Tr. SE	03-03-12	7,182	60.71	410,717	$4,250,000	9.66%
Southview Plaza	3301 17 Ave. SE	30-12-11	30,375	9.73	277,878	$2,700,000	10.29%
MacLeod Tr. Plaza	180 94 Ave SE	18-08-11	123,766	18.31	2,128,680	$33,750,000	6.31%
Pacific Plaza Mall	999 36 St. NE	27-05-11	189,176	19.43	3,355,812	$44,000,000	7.63%
Sunridge Sears Centre	3320 Sunridge Wy. NE	19-01-11	60,514	16.33	932,845	$12,600,000	7.40%
						Mean:	7.63%
						Weighted Mean:	7.30%

[11] It was noted that both Methods I and II incorporated the three sales from the City Analysis: Macleod Trail Plaza, Pacific Plaza Mall and Sunridge Sears Centre. Chinook Station and Southview Plaza were not included in the City analysis.

[12] The Complainant summarized that method I reflected a mean cap. rate of 7.63% and a median cap. rate of 6.87%, while method II yielded median cap. rate of 7.63% and a weighted mean cap. rate of 7.30%.

[13] Further to this, the Complainant provided two charts, each titled "2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I" [C-1; Pg. 54]. It was noted that the second chart contained the additional sales that were utilized to determine the cap rate for the 2012 taxation year. Considering all the sales together, the mean cap rate is calculated as 7.84%, while the median cap rate was indicated to be 7.63%.

[14] Repeating the same exercise for cap rate method II [C-1, pg.56], yielded a median of 7.76% and a weighted mean of 7.53%.

[15] Additionally, documents identified as exhibits C-2 through C-7 were submitted in support of the capitalization rate argument.

[16] Based on all the foregoing, the Complainant submits that a 7.5% capitalization rate results in a better market value assessment.

Respondent's Position:

[17] The Respondent provided a document (R-1) in support of the current assessment.

[18] In addition to various maps, photos, etc. of the subject property, Property Detail Reports and Assessment Explanation Supplements were provided for the subject property, as well as for the three sales utilized by the City.

[19] The Respondent provided an analysis chart titled "2013 Neighbourhood, Community Centre Capitalization Rate Summary" [R-1, Pg. 33]. The summary is replicated below:

2013 Neighbourhood, Community Centre Capitalization Rate Summary						
S/C Name	Address	Sale Date	Area	N.O.I.	Sale Price	C/R
Sunridge Sears Centre	3320 Sunridge wy. NE	2011-01-19	60,514	825,181	$12,600,000	6.55%
Pacific Plaza Mall	999 36 St. NE	2011-05-27	188,537	3,078,515	$44,000,000	7.00%
MacLeod Tr. Plaza	180 94 Ave SE	2011-08-18	123,766	2,318,301	$33,750,000	6.87%
					Median	**6.87%**
					Average	**6.80%**
					Assessed	**7.00%**

[20] The Respondent noted that the three sales listed above were also included in the Complainant's analysis. It was noted that the sales are reasonably current, (January 2011 to August 2011), and reflect median and average cap rates of 6.87% and 6.80% respectively, which support the assessed 7.0% cap rate.

[21] Additionally, the Respondent referenced the section "Review of Altus' Capitalization Rate 1 and 2" [R-1; Pgs. 41-218], providing supporting documentation to their sales, as well as their argument that the two additional sales utilized by the Complainant were not representative of typical neighbourhood shopping centres, and consequently, should not be utilized in the capitalization rate analysis.

[22] The Respondent argued that the Altus method II cap rate calculations are predicated on an outdated (1999) version of the AAAVG manual. They advise that a more current (2012) version of the manual now exists.

[23] Finally, in support of their position and assessment market level accuracy, the Respondent submitted a summary chart titled "2013 Neighbourhood/Community Shopping Centre ASR Test Complaint Methodology" [R-1; Pg. 214]. The Assessment to Sale Ratio (ASR) analysis included ASR results respecting the three common sales, as well as the two additional sales included in the Altus evidence. Results were tabulated for the sales predicated on assessments as they currently stand, as well as for both of Altus's Methods I & II. Current assessments with a 7% cap rate yielded average and median ASR's of 0.975 and 0.967 respectively. Altus Method I predicated on a 7.5% cap rate, indicated average and median ASR's of 1.138 and 0.915 respectively, while Method II, with a 7.5% cap rate, yielded average and median ASR's of 1.168 and 1.139 respectively. Based on the ASR results, the City argues that the cap rate change proposed by Altus does not provide superior market-related assessments.

Board's Reasons for Decision:

[24] There was insufficient market evidence from the Complainant to convince the Board that a variance to the capitalization rate is justified.

[25] The Board has some concerns with the Complainant's reference to the outdated version of the AAAVG. Notwithstanding this, the Board notes that the AAAVG is merely a guide

for assessors. It is neither regulated nor legislated, and as such, it has no legal bearing.

[26] The Board reviewed in depth the additional two sales put forward by the Complainant, and is of the opinion that neither of the two sales are representative of typical Neighbourhood/Community Shopping Centre sales.

[27] The sale at 6550 MacLeod Trail SW (Chinook Station) was indicated to be a vacant land sale. The evidence was unclear as to whether or not the forthcoming improvement was actually included in the sale price. The sale should be excluded from the analysis.

[28] The sale at 3301 17 Ave. SE and 1819 33 St. SE, (Southview Plaza) was shown to be two separate sales, from the same vendor to two different purchasers. Additionally, the anchor store was 100% vacant, while the CRU spaces were 40% vacant. From an economic perspective, this sale was not reflective of conditions inherent in the sale of a typical shopping centre and should not be included in the analysis.

[29] The Board cannot overemphasize the importance of utilizing sales of truly comparable properties in Capitalization Rate Studies. To do otherwise puts into question the accuracy of the ensuing results.

[30] In order for this Board to vary the assessed capitalization rate, it is crucial that the Complainant provide market evidence that the proposed changes result in a better or more accurate assessment. The only market evidence in this regard was put forward by the City in the form of an ASR analysis. The results clearly showed that the Altus requested cap rate change resulted in assessments more varied, and distanced from indicated market levels.

[31] In the final analysis, the Complainant did not satisfy the "burden of proof" requirement to convince the Board that a variance in the capitalization rate was warranted. While the City's evidence was less than ideal (from a quantity of sales perspective), the three sales provided support to the assessed 7.0% capitalization rate. The ASR's provided a mean/median of 0.975 and 0.967, while the mean/median utilizing the requested 7.5% capitalization rate reflect mean/median ASR's of 1.138/0.915 and 1.168/1.139, for Altus Methods I & II. The City's assessed average/median ASR's are within the mandated range.

Issue 2: Grocery Store Rate for B Quality stores

Complainant's Position:

[32] The Complainant is arguing that the grocery store rate of $15.00 is too high. Altus is requesting that the grocery store rate for B quality neighbourhood shopping centres be reduced to $13.00.

[33] In support of this position, the Complainant has provided a chart titled "Grocery Leasing Analysis; 'B=Average Stores' [C-1; Pg. 29]:

Grocery Leasing Analysis

'B=Average Stores'

Tenant	Civic Address	Shopping Centre	Area (Sf)	Rental Rate	Leasing Date	Term
Sobeys Capital	8338 18 Street SE	Riverbend Shopping Centre	34,969	$14.50	1-Dec-11	5
Canada Safeway	1200 37 Street SW	Westbrook Mall	47,980	$6.00	1-Nov-11	15
Basha Foods	2717 Sunridge Way NE	Sunridge Commercial Dist..	20,000	$17.00	1-Mar-11	10
Canada Safeway	8120 Beddington Blvd. NW	Beddington Towne Centre	54,792	$13.50	1-Nov-2010	5
Canada Safeway	1600 90 Ave. SW	Glenmore Landing	52,465	$13.00	1-Sep-10	5
Sobeys Capital	6449 Crowchild Tr. SW	Lakeview Plaza	19,698	$9.00	1-Mar-09	5
	Median	47,980	$13.25			
	Mean	42,041	$12.17			
	Weighted Mean	-	$13.01			

[34] Included in the chart is data respecting six leases with start dates ranging from 2009 to 2011. Lease rates range from $6.00 to $17.00, with median, mean and weighted mean of $13.25, $12.17 and $13.01 respectively. The analysis, in the Complainant's opinion, suggests an assessed rate of $13.00 to be more appropriate to this class of property, than the $15.00 applied by the City.

[35] Further to this, the Complainant submitted the City of Calgary summary titled "2013 Supermarket Rental Rate Analysis" [C-4g; Pg. 12]. It was noted that the 3 leases provided by the City indicated rates ranging from $14.50 to $17.00, with a median lease rate of $15.00 in support of the assessed $15.00 typical rental rate.

[36] The Complainant acknowledged that two of the City leases are also included in the Altus analysis, (ie: 2717 Sunridge Way NE and 8338 18 St. SE). Additionally, the Complainant advised that the City's lease associated with Canyon Meadows Drive (Deervalley Shopping Centre) should be excluded as it is, in Altus's opinion, an A quality store.

Respondent's Position:

[37] The Respondent referenced the City submission R-1 and more specifically, the rental rate analysis titled "2013 Supermarket Rental Rate Analysis Revised [Pg. 199], as replicated below:

	2013 Supermarket Rental Rate Analysis Revised				
Address	**Leased Area**	**Lease Rent Rate**	**Comm. Date Year**	**Comm. Date mo.**	**Lease Term**
1221 Cany. Mead. Dr. SW	55,130	$15.00	2011	09	10
2717 Sunridge Wy. NE	20,000	$17.00	2011	03	10
8338 18 St. SE	34,969	$14.50	2011	12	5
8120 Bedding. Blvd. NW	54792	$13.50	2009	9	25
	3 Yr. Median :	**$14.75**			

[38] The respondent acknowledged that three of the four leases are also included in the Altus analysis, and that the Canyon Meadows Drive lease is appropriately included in the City Analysis, as it is in their opinion, a B quality grocery store.

[39] With respect to the Altus lease at 1200 37 St. SW (Westbrooke Mall), the Respondent referenced [R-1; Pgs. 202-203], wherein a rent roll indicates a lease term of 20 years, with an expiry date of October 31, 2026. Working backwards 20 years from the expiry date puts the lease commencement date at November 1, 2006. As such, it is the Respondent's opinion that the dated lease be excluded from analysis.

[40] In referencing [R-1; Pgs. 209-210], the Respondent provided information relative to the Altus lease at 1600 90 Ave. SW (Glenmore Landing), noting that it is a 1985 lease and should be excluded from the analysis.

[41] With respect to the Altus lease at 6449 Crowchild Trail SW (Lakeview Plaza), [R-1; Pgs. 212-217] the Respondent advised that this lease is the original 1994 lease, and in their opinion, must be excluded from the analysis.

Board's Reasons for Decision:

[42] The Board is in agreement with the Complainant that the 1221 Canyon Meadows Drive SE (Deervalley Shopping Centre) lease is an A quality rather than a B quality grocery store and should not be included in the B quality group analysis. The substantial renovations, along with classification of the shopping centre itself as an A quality supports the grocery store being an A quality.

[43] With respect to the Altus leases at Westbrook Mall, Glenmore Landing and Lakeview Plaza, the Board reviewed all the evidence respecting these leases, and is in agreement with the Respondent, that the leases are original dated leases, and should be excluded from the analyses.

[44] Considering all the foregoing, the Board summarized the data for analysis as follows:

Grocery Store Leasing Summary - B Quality			
Name	Area	Rate	Annual Rent
Riverbend Shopping Centre	34,969	$14.50	$507,050.50
Sunridge Commercial District	20,000	$17.00	$340,000.00
Beddington Towne Centre	54,792	$13.50	$739,692.00
	109,761		1,586,743
	mean:	$15.00	
	median:	$14.50	
Weighted Mean:		$14.46	

[45] The results indicate a mean rental rate of $15.00, a median rate of $14.50 and a weighted mean of $14.46. It is the Board's opinion that the B quality grocery store rate remains at $15.00.

Issue 3: Retail Rental Rate : CRU 6,001 – 14,000 sf.

Complainant's Position:

[46] The Complainant is of the opinion that the current assessed rental rate of $22.00 is incorrect. The correct rate should be $15.00. Notwithstanding this, the Complainant is prepared to accept the city's recommended rate of $18.00.

Respondent's Position:

[47] The Respondent recommends that in this particular instance, the specified retail CRU rate should be reduced from $22.00 to $18.00.

Board's Reasons for Decision:

[48] The Board accepts the Respondent's recommendation and sets the assessed retail CRU rate (6,001 – 14,000 sf.) at $18.00.

[49] On review and consideration of all the evidence before it in the issues as stated, a summary of the Board decision is as follows:

- **Issue 1: Capitalization rate**: There was insufficient evidence to vary the assessment.
- **Issue 2: Grocery store rental rate:** There was insufficient evidence to vary the assessment.
- **Issue 3: Retail CRU Rate, 6,001 – 14,000 sf.:** The Board reduces the rental rate to $18.00.

[50] The assessment is reduced to **$17,350,000**.

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

Walter F. Krysinski
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	Complainant 2013 Cap Rate=Community/Neighbourhood Appendix (Part I)
4. C3	Complainant 2013 Cap Rate=Community/Neighbourhood Appendix (Part II)
5. C4	Complainant Shopping Centre- -2013 Cap Rate (Part I)
6. C5	Complainant Shopping Centre- -2013 Cap Rate (Part II)
7. C6	Complainant 2013 ARB reference Appendix
8. C7	Complainant 2013 ARB Cap Rate Rebuttal Appendix
9. C4g	Complainant 2013 'B' Group Supermarkets – Rebuttal Apendix
10. C5g	Complainant 2013 Grocery Leasing 'B=Average Stores' Evidence Appendix

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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Neighbourhood/Community Shopping Centre	• Capitalization Rate • Grocery store Rental Rate • CRU Rate	