



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:

WESTHILLS EQUITIES INC.
(as represented by Altus Group Limited)

COMPLAINANT

and

THE CITY OF CALGARY

RESPONDENT

before:

T. SHANDRO, PRESIDING OFFICER
J. RANKIN, BOARD MEMBER
A. MACIAG, 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 2014 Assessment Roll as follows:

ROLL NUMBER: 085051704

LOCATION ADDRESS: 5751 Richmond Road SW

FILE NUMBER: 74141

ASSESSMENT: \$28,080,000

This complaint was heard on June 9, 2014, 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:

- B. Neeson, Agent, Altus Group Limited

Appeared on behalf of the Respondent:

- C. Yee, Assessor, The City of Calgary

Procedural or Jurisdictional Matters

- [1] There were no procedural or jurisdictional matters arising.

Property Description

[2] The subject property is a parcel within Signal Hills Shopping Centre, which is assessed by the Respondent as a power centre.

[3] The subject property was assessed using the income approach. The Respondent used a capitalization rate of 6.00% to calculate the assessed value. There is a Jr. Big Box rentable area which is assessed using a rental rate of \$19.50 per square foot ("SF").

Issues

[4] The Board identified the issue as follows:

1. Did the Respondent use the correct capitalization rate for the subject property?
2. Did the Respondent use the correct rental rate of \$19.50/SF for the Jr. Big Box subcomponent?

Complainant's Requested Value

[5] In the Complaint Form, the Complainant requested a reduced assessment of \$22,080,000. At the hearing the Complainant amended the requested value to \$24,120,000.

Board's Decision

[6] The Board reduces the assessment of the subject property to \$26,130,000.

Complainant's Position*Capitalization Rate*

[7] Regarding the issue of the capitalization rate, disclosure and argument was carried over by the Complainant from CARB 75557P-2014, because this file included an identical issue.

[8] The Complainant provided an analysis of capitalization rates for power centres in the City of Calgary, which can be summarized as follows.

[9] There have been only four sales within power centres, all of which took place in 2012 in the Crowfoot Power Centre in the northwest of the City of Calgary:

(a) 20/60 Crowfoot Cr NW, on April 30, 2012, for \$31,250,000, which resulted in a capitalization rate of 6.78% ("Crowfoot Village");

(b) 140 Crowfoot Cr NW, on May 28, 2012, for \$35,500,000, which resulted in a capitalization rate of 5.13% ("Crowfoot Corner");

(c) 850 Crowfoot Cr NW, on May 30, 2012, for \$4,750,000, which resulted in a capitalization rate of 6.03% ("Community Natural"); and

(d) 155 Crowfoot Way NW, on June 26, 2012, for \$5,980,000, which resulted in a capitalization rate of 8.60% (the "Harper's Tire").

[10] The Complainant further argued that when an analysis includes very few properties, it is proper to increase the scope of the analysis by geography or by time. In this case, the Complainant included what it called an investment-grade market indicator, which was a sale in 2011 of the Sunridge Sears building at 3320 Sunridge Way NE. The Complainant acknowledged that this building was not a power centre, but that the capitalization rate of 6.55% should be considered in the analysis of power centre capitalization rates because of its similarity to power centres.

Jr. Big Box Rental Rate

[11] Regarding the issue of the Jr. Big Box rental rate, disclosure and argument was carried over by the Complainant from CARB 74138P-2014, because this file included an identical issue.

[12] The Complainant submitted that the question, in determining a rental rate for Big Box subcomponents in power centres, is whether a lease analysis should be city-wide or whether the lease analysis should remain within the power centre. Why, the Complainant asked, did the Respondent look outside the West Hills Power Centre, when there was ample evidence within that power centre? The Complainant argued the Respondent looks at site-specific information for the majority of the rental rates it assesses. With adequate information within this power centre, the Jr. Big Box component should also be site-specific when assessed.

[13] The Complainant estimated there are at least six Jr. Big Box locations within the subject power centre, with leased areas ranging from 23,699 SF to 35,329 SF. The rates ranged from \$6.43/SF to \$24.00/SF, with a median of \$14.95/SF and an average of \$14.68/SF. Three of the terms were for five years, two for ten years, and one for 15 years. Three of the leases commenced in 2009, one in 2012 and two in 2013.

Respondent's Position

Capitalization Rate

[14] Regarding the issue of the capitalization rate, disclosure and argument was carried over by the Respondent from CARB 75557P-2014, because this file included an identical issue.

[15] The Respondent's analysis of capitalization rates for power centres agreed with the inclusion of Crowfoot Village, Crowfoot Corner and Community Natural in the calculation of a capitalization rate for assessing power centres. The Respondent however disagreed with the inclusion of the Harper's Tire sale.

[16] The Respondent argued that the Harper's Tire sale was not arms-length and therefore should not be included in the analysis. The two companies involved in the transaction were Village Motors Ltd. ("Village") and Telsec Property Corporation ("Telsec"). Each have sole directors: Gerry Wood for Village and Richard Van Grieken for Telsec. The Respondent's research indicated that Messrs. Wood and Van Grieken have both served as directors of a separate corporation not involved in the transaction, Mac73 Ltd. The Respondent argued there was at some time a business relationship between these two men and, therefore, Telsec and Village as well. As such, the transaction should not be included in the capitalization rate analysis.

[17] The Respondent further disagreed with the inclusion of Sunridge Sears building, as the building is not a power centre.

Jr. Big Box Rate

[18] Regarding the issue of the Jr. Big Box rental rate, disclosure and argument was carried over by the Respondent from CARB 74138P-2014, because this file included an identical issue.

[19] The Respondent replied that it made a choice to consider city-wide information or site-specific. In this case, the Respondent advised it considered city-wide information, however it conceded that "both arguments are valid" and that there was enough information in the Westhills Power Centre to assess Jr. Big Box subcomponents using site-specific information.

Reasons for Decision

Capitalization Rate

[20] The Board determined that the Harper's Tire sale was in fact arms-length. Whether Messrs. Van Grieken and Wood have ever served as directors on the board of another corporation does not make the relationship between Village and Telsec nonarms-length. The evidence provided by the Respondent indicates that the ownership and the directorship of the two corporations is completely separate.

[21] However, the Board determined that the Harper's Tire sale should not be included in the capitalization rate analysis for power centres for a different reason. At the time of the sale, the building was empty and without tenants for a significant period of time. The Board therefore determined there was insufficient information to agree with the Complainant's calculation of the capitalization rate of 8.60% for this property.

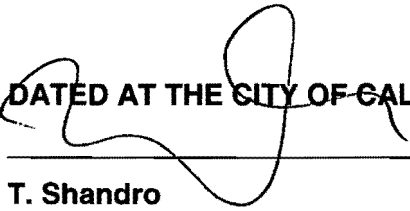
[22] Analysis of the other three properties confirmed the capitalization rate used in the assessment of the subject property, 6.00%.

Jr. Big Box Rental Rate

[23] The Board determined the Jr. Big Box subcomponent for the subject property should be assessed with site-specific information. The Board concluded, using the median of the rental rate analysis of the Complainant, that this subcomponent should be assessed at \$15.00/SF.

Conclusion

[24] The Board therefore reduces the assessment value of the subject property to \$26,130,000.

 DATED AT THE CITY OF CALGARY THIS 18 DAY OF July 2014.

T. Shandro
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. C2, parts 1 and 2	Complainant Capitalization Rate Analysis
3. C3	Complainant Rebuttal
4. C4	Complainant PAIR Response
5. 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 Administrative Purposes Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Power Centre	Income	Cap Rate