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 (MGA).

between:

Trinity Properties Alberta Limited (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before

L. Yakimchuk, PRESIDING OFFICER
P. Cross, BOARD MEMBER
G. Milne, 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:	**200768679**
LOCATION ADDRESS:	**11458 Sarcee Tr NW**
FILE NUMBER:	**75544**
ASSESSMENT:	**$26,570,000**

This complaint was heard on June 16, 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:

- *C. Fong, Altus Group*
- *A. Izard, Altus Group*

Appeared on behalf of the Respondent:

- *J. Lepine, City of Calgary Assessor*
- *N. Sunderji, City of Calgary Assessor*

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

[1] The parties both asked to have the capitalization rate portion of their arguments heard together for CARB Files 75544, 75546, 75350, 74134, 74114, 74113. For this reason, the arguments and conclusions for these files will be very similar.

Property Description:

[2] The subject property includes commercial retail units in Beacon Hill Power Centre at 11458 Sarcee Tr NW. The units include Michael's, Golf Town, Goodlife Fitness, RBC and TD Bank, for a total of 82,906 sf of freestanding retail space.

Issues:

[3] Should the capitalization (Cap) rate for this Power Centre property be increased from 6.00% to 6.50%?

Complainant's Requested Value: $24,530,000

Board's Decision:

[4] The Board confirmed the assessment at $26,570,000 using a Cap rate of 6.00%.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000 Section 460.1:

(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).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

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.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

(a) market value, or

if the parcel is used for farming operations, agricultural use value

Position of the Parties

Complainant's Position:

[5] The Complainant, K. Fong, Altus stated that the subject property is part of the Beacon Hill Power Centre. As such, it is assessed at typical rates for Power Centres. Altus has no argument with the rent rates and the other typical values used in the calculation of the value of the property. However, the Cap rate is low and should be 6.5% rather than 6.0%.

[6] The Cap rate for Power Centres has been calculated by the City of Calgary based on two 2012 sales of properties in the Crowfoot Crossing Power Centre. The Complainant argued that not only are these two sales from the same location, but they were arranged at the same time. Altus does not believe that they are an accurate representation of typical Calgary Power Centre properties.

[7] Altus introduced two additional sales of Power Centre properties. One is Community Natural Foods at 850 Crowfoot Cr NW and the other is Harper's Tire/Enterprise at 155 Crowfoot Wy NW. The sales, with Cap rates of 6.03% and 8.60%, were registered on May 30, 2012 and June 26, 2012 respectively. Including these two sales in the calculation of a typical Cap rate resulted in a Mean Cap rate of 6.63% and a Median Cap rate of 6.41%.

[8] As well, Altus included the sale of the Sunridge Sears building at 3320 Sunridge Way NE registered on January 19, 2011 with a Cap rate of 6.55% to support the requested Cap rate of 6.5%.

Respondent's Position:

[9] N. Sunderji, Assessor, on behalf of City of Calgary explained that the City used the two available sales from Crowfoot Crossing because they were the only sales of income producing properties available. He stated that Crowfoot Crossing is an accepted example of a Power Centre and the two properties were sold fairly recently, in 2012.

[10] J. Lepine, Assessor argued that Harper's Tire (previously Crowfoot Honda) was sold as a vacant property, and it was not producing an income at the time of the sale. Further, it was changed after it was purchased to accommodate the two current tenants. Therefore the income which it is currently producing is not the income it would have been able to produce prior to being sold. Previously, the car dealership had been assessed using the Cost approach. It would be difficult to accurately calculate a Cap rate for the property for the assessment year.

[11] In addition, the City argued that Direct Control (DC) land use limitations on the property restrict its options for development severely and may have been a reason that the property sold at a low value, therefore increasing the Cap rate.

[12] Finally, the City introduced corporate searches, sales and other documents indicating that there may be a relationship between the vendor and purchaser rendering the sale non-arm's length.

[13] City of Calgary also argued that 850 Crowfoot Cr NW was purchased for occupancy by the owner and not to produce a rental income. For this reason, it was excluded from the Cap rate study.

Board's Reasons for Decision:

[14] The Board considered the Capitalization Rate Summary presented by the Complainant (C2, p17). Two of the sales in the summary were also on the Respondent's 2014 Power Centre Capitalization Rate Study (R1, p100). The remaining two carne from the same Power Centre (Crowfoot Crossing) as the first two.

[15] Both parties accepted 20/60 Crowfoot Cr NW and 140 Crowfoot Cr NW as suitable sales for the study. The Board agreed and chose to use them as well.

[16] The Sunridge Sears building is not in a Power Centre and its sale was introduced by the Complainant to support a 6.5% Cap rate, but not to be included in the Power Centre Cap rate study. The Board did not include it in the Cap rate study.

[17] City of Calgary argued that 850 Crowfoot Cr NW was owner occupied and was purchased for its value to the owner. The Board found that the sale was arm's length and had a value that could be measured to calculate a Cap rate. The building was similar before and after it was sold. The Board decided to include it in the Cap rate study. The Cap rate (6.05%) used by the Complainant for this property did not change the Cap rate presented by the City.

[18] The Board considered 155 Crowfoot Wy NW. The property sold as a vacant car dealership which was assessed using the Cost approach, and is now operating as a tire shop and a car rental office assessed using the Income approach. The Board decided that the Sale value of the property was based on its use as a car dealership, whereas the Income approach valuation is based on a different use with some alterations to the building. It would be difficult to calculate an accurate Cap rate for the building using these two values.

[19] For these reasons, the Board chose to exclude 155 Crowfoot Wy NW from the Cap rate study and to use the three remaining properties proposed by the parties. There were no other timely sales of similar Power Centre properties available, therefore these three sales from one centre only were used to calculate a typical Cap rate of 6.00%.

[20] The Board confirmed the Cap rate of 6.00%, and the assessed value of $26,570,000.

DATED AT THE CITY OF CALGARY THIS 11th **DAY OF** July **2014.**

L. Yakimchuk

L. Yakimchuk

Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Appendix Cap Rate Study
3. 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 office use only:

A	B	C	D	E
CARB	Retail	Big Box	Income approach	Cap Rate