



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:

Riocan Holdings Ltd. (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***L. Loven, PRESIDING OFFICER
A. Blake, BOARD MEMBER
A. Zindler, 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:	711102004
LOCATION ADDRESS:	4307 130 Ave SE
FILE NUMBER:	75667
ASSESSMENT:	\$121,040,000 (Amended January 13, 2014)

This complaint was heard on 24th day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *B. Neeson* *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *G. Good* *Assessor, The City of Calgary*
- *A. Hendrata* *Assessor, The City of Calgary*

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

[1] At the outset of the hearing the parties confirmed they had no objection to the composition of the Board and the Board members confirmed to the parties that they had no bias nor any reason as to why they would not be able to hear the matter before them.

Property Description:

[2] The subject property is retail shopping centre, part of a power centre known as *South Trail Crossing*, located in the community of McKenzie Towne. The subject property is comprised of sub-component space as follows:

Sub-Component	Area (Sq.Ft)
Auto Repair	9,042
Auto Quick Service	2,797
Bank	8,949
Big Box 14,001-40,000	69,235
CRU 0-1,000	1,998
CRU 1,001-2,500	37,950
CRU 2,501-6,000	52,473
CRU 6,001-14,000	40,555
Gas Bar	1 (nominal)
Mezzanine	1,975
Pad 2,501-6,000 Sq.Ft	12,854
Dining Lounge	17,359
Fast Food	8,592
Super Market	49,395

Issues:

[3] Is the assessed capitalization rate correct?

[4] Is the market net rental rate for the CRU 0-1,000, CRU 2,501-6,000 and CRU 14,001-40,000 space correct?

Complainant's Requested Value: \$105,680,000

Board's Decision:

[5] It is the decision of the Board to reduce the 2014 assessment of the subject property from \$121,040,000 to \$114,490,000.

Legislative Authority, Requirements and Considerations:

[6] The Act reads:

s 1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board 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

[7] At the outset of the hearing:

1) the parties, requested that argument and evidence be carried forward from File numbers 74427 and 74533, where applicable.

2) The Respondent raised a potential objection to the Complainant's rebuttal submission regarding capitalization rates; however, during the hearing no further objection was raised, and the submission was entered into evidence.

Complainant's Position:

[8] In support of its position, the Complainant submitted a document containing 77 pages, entered into evidence as Exhibit C1 ("C1").

- 1) In support of the requested capitalization rate, the Complainant provided, summarized from C2: four sales comparables located in a development known as *Crowfoot Centre*; and, one market indicator, known as the *Sunridge Sears*.
 - i. The Complainant determined the capitalization rate for each sales comparable by dividing the sale year assessed net operating income ("NOI") by the sale price. The four *Crowfoot Centre* sales ranged from 5.13% to 8.60% and averaged to 6.63% with a median value of 6.41%. The *Sunridge Sears* comparable was shown to have a capitalization rate of 6.55%.
 - ii. The Complainant provided the 2014 Assessment to Sales Ratios ("ASR"s) for the sales comparables. At a capitalization rate of 6.0%, the ASRs for the four *Crowfoot Centre* sales comparables ranged from 88% to 146%, with an average of 113.41% and a median of 109.81%. At a capitalization rate of 6.5%, the ASRs for the four *Crowfoot Centre* sales comparables ranged from 81% to 135%, and had an average for 104.72% and a median of 101.42 %. The *Sunridge Sears* market indicator was shown to have an ASR of 114%.
 - iii. The Complainant argued that these sales comparables supported the requested capitalization rate of 6.5% for all power centres, not 6.00% as assessed
- 2) Regarding the market rental rate of CRU space from 0 to 1,000 square feet, excerpted from C3:
 - i. The Complainant provided a 2014 lease analysis of seven leases in *South Trail*. The leases ranged as follows: in leased area, from 900 to 950 square feet; in lease rate, from \$30.00 to \$38.00 per square foot; and, in start date, from March 2011 to October 2011. Terms ranged from 5 to 10 years. The leases averaged to \$34.29 per square foot, and had a median of \$36.00 per square foot.
 - ii. The Complainant also provided the Respondent's 2013 *South Trail* lease analysis. This lease analysis contained the same seven as given in the paragraph above.
 - iii. The Complainant argued the two lease analyses supported a market rate of \$36.00 per square foot.
- 3) Regarding the market rental rate of CRU space from 2,501 to 6,000 square feet, excerpted from C3:
 - i. The Complainant provided a 2014 lease analysis of nine leases in *South Trail*. The leases ranged as follows: in leased area, from 2,527 to 5,013 square feet; in lease rate, from \$16.00 to \$37.00 per square foot; and, in start date, from July 2010 to March 2013. All but one (at 5 years) had 10 year terms. The leases averaged to \$27.56 per square foot, and had a median of \$27.00 per square foot.
 - ii. The Complainant also provided the Respondent's 2013 *South Trail* lease analysis. This lease analysis contained nine leases ranging in

area from 2,577 to 4,980 square feet, lease rate from \$16.00 to \$31.00 per square foot, commencement from January 2009 to December 2011. Two leases had a 5 year term; five a 10 year term; and, one, a 15 year term. The leases were shown to have a median value of \$27.00 per square foot and an average value of \$26.13 per square foot.

- iii. The Complainant argued the two lease analyses supported a market rate of \$27.00 per square.
- 4) Regarding the market rental rate of junior big box space from 14,001 to 40,000 square feet, excerpted from C3:
- i. The Complainant provided a 2014 lease analysis of four leases in *South Trail*. The leases ranged as follows: in leased area, from 18,089 to 33,659 square feet; in lease rate, from \$16.75 to \$18.50 per square foot; and, in start date, from July 2009 to January 2012. Lease terms ranged from 4 to 15 years. The leases averaged to \$17.63 per square foot, and had a median of \$17.63 per square foot.
 - ii. The Complainant also provided the Respondent's junior big box lease analysis. This lease analysis contained thirty leases ranging in area from 14,836 to 37,809 square feet, lease rate from \$12.50 to \$30.91 per square foot, commencement from January 2008 to October 2010. Lease terms shown ranged from 5 to 15 years. The leases were shown to have a median value of \$18.11 per square foot and an average value of \$17.05 per square foot.
 - iii. The Complainant argued the two lease analyses supported a market rate of \$17.50 per square foot.

[9] In support of the requested capitalization rate of 6.00%, the Complainant submitted a 157 page document, entered into evidence as Exhibit C2 ("C2"). This information was summarized in C1.

[10] The Complainant submitted a document Exhibit C-3 ("C-3") containing the 2014 lease rent analysis for the *Westhills, Crowfoot, Country Hills, Beacon Hill, Shawnessy, South Trail, and Deerfoot Meadows* power centre sub-components. Where applicable, this information was presented in C1.

[11] The Complainant provided a rebuttal to the Respondent's submission regarding power centre capitalization rate analysis. This submission was entered into evidence as Exhibit C4 ("C4").

- 1) The Complainant showed the 2014 assessment of 155 Crowfoot Way and compared the assessed market rental rates to other properties in the Crowfoot power centre containing the same sub-components to have been assessed at the same market rental rates.
- 2) The Complainant provided the sales record for 20 Crowfoot Crescent NW and an email transmittal. The documents showed that 20/60 Crowfoot Crescent NW and 140 Crowfoot Crescent NW sold at the same time under a single purchase agreement.
- 3) The Complainant provided a 2014 capitalization rate summary, as included in C1. The summary showed a mean and median of four sales to be 6.63% and

6.41 respectively, plus an investment grade sale at 6.55%.

Respondent's Position:

[12] The Respondent submitted 180 page document. The document was entered into evidence as Exhibit R1 ("R1").

- 1) The Respondent provided the detailed assessment sheet for the subject property, showing auto mechanical, auto service, bank, junior big box, CRU 0-1,000, CRU 1,001-2,500, CRU 2,501-6,000 and CRU 6,001-14,000, gas bar, mezzanine, pad 2,501-6,000, dining lounge, fast food and supermarket spaces assessed at \$17.50, \$29.00, \$33.00, \$19.50, \$38.00, \$31.00, \$31.00, \$19.00, \$105,000 (each), \$2.00, \$31.00, \$26.00, \$33.00 and \$15.00 per square foot, respectively. The resultant net operating income was capitalized at a rate of 6% for an assessed value of \$121,040,000.
- 2) Aerial photographs of the subject property showed it to be located on the southside of 130th Avenue and east of Deerfoot Trail.
- 3) Excerpts from Assessment Request For Information ("ARFI"s) dated May 30, 2008, March 16, 2009, August 21, 2012 showed the rental rate for a 10 year lease on a 915 and 950 square foot space, commencing September 1, 2006 and October 1, 2006, respectively, in the subject property as \$30.00, \$33.00 and \$36.00 and \$28.00, \$28.00 and \$34.06 per square foot, respectively, and step-up or increase in rent for the 950 square foot lease commencing November 1, 2011, and for the 915 square foot lease, November 15, 2011.
- 4) Excerpts from ARFIs dated May 30, 2008, April 8, 2011 and August 21, showed the rental rate for a 10 year lease on a 3,495 square foot space, commencing November 1, 2006, in the subject property, as \$28.00, \$31.00 and \$31.00 per square foot respectively.
- 5) The Respondent submitted a table containing five leases from *South Trail* in the 0 to 1,000 square foot sub-component. The lease leases ranged from \$28.00 to \$38.00 per square foot. The median was given to be \$38.00 per square foot and assessed at \$38.00 per square foot.
- 6) The Respondent submitted a table containing five leases from *South Trail* in the 2,501 to 6,000 square foot sub-component. The lease leases ranged from \$25.00 to \$37.00 per square foot. The median was given to be \$31.00 per square foot and assessed at \$31.00 per square foot.
- 7) The Respondent submitted a table containing ten city-wide leases in the 14,001 to 40,000 square foot sub-component. The lease leases ranged from \$6.43 to \$31.00 per square foot. The median was given to be \$19.50 per square foot and assessed at \$19.50 per square foot.
- 8) The Respondent provided: a real estate listing for a commercial property located at 155 Crowfoot Trail; bird's eye and aerial photographs and maps showing 155 Crowfoot Way located at the northwest edge of the Crowfoot Towne Centre; exterior photographs of the building located on the subject property.
 - i. The *RealNet* sale report for 155 Crowfoot Trail and 10220 Crowchild

Trail NW, showed the vendor as *Village Honda (Village Motors Ltd.)*, and the purchaser as *Telsec Property Corporation*. Corporate searches showed: for the vendor, Gerry Wood as a director; and for the purchaser, Richard Van Grieken, as a director and the corporation as holding shares in *Mac73 Ltd.*. The corporate search for *Mac73 Ltd.* showed both Gerald Wood and Richard Van Grieken as the only two directors.

- ii. The Respondent submitted the City of Calgary sales questionnaire for 155 Crowchild Way NW. The questionnaire showed the sale to be arms-length, not affected by any conditions and to have included 10220 Crowfoot Trail NW at and 69 Crowfoot Rise NW.
 - iii. The 2013 assessment of 155 Crowchild Way NW showed the property assessed at \$3,610,000 based on the cost approach. The 2014 assessment for the same property showed an assessment of \$5,280,000 assessed on the income approach. An amended 2014 property assessment notice showed the market value to be \$5,980,000. The amendment was shown by the Respondent to have resulted from changes to the rental rates for three sub-components and the capitalization rate from 6.5% to 6.0%. The Respondent explained that these changes were due to assessment of the property as a power centre, not a free-standing building, arising from a change of use by the purchaser.
- 9) The Respondent submitted *CARB 72254P-2013*, regarding the capitalization rate.
 - 10) The Respondent provided the detailed assessment for 3320 Sunridge Way NE, known as the *Sunridge Sears* assessed at a capitalization rate of 6.75%; as well as *Altus Group's* appeal for the property, dated January 31, 2014. The excerpts showed 2012 neighbourhood shopping centre capitalization rate analysis for the property to be 6.55% and 7.40% based on assessed income and typical market income.
 - 11) The Respondent included a sales data sheet of 3320 Sunridge Way NE, dated January 19, 2011. The data sheet showed the price of \$12,600,000 and an assessment of \$13,490,000. The Respondent also included a letter, dated November 29, 2010, from an appraiser stating the purchase price represented the leased fee value.
 - 12) The Respondent provided the 2012 assessment for 8220 Centre Street NE, known as *Co-op Bedington Centre*, noting to the Board it was assessed as a neighbourhood community shopping centre with a capitalization rate of 7.25%. Similarly, the *Montgomery Square Co-op* located at 2220 68 Street NE was assessed using the same vacancy and capitalization rates.
 - 13) The Respondent presented the *RealNet* sales data sheet for 850 Crowfoot Crescent NW, dated May 30, 2014 It showed a price of \$4,750,000 and a 2011 assessment of \$3,390,000.
 - 14) Regarding capitalization rates, the Respondent submitted their 2014 power centre capitalization rate study. The study contained sales, located at 20/60 Crowfoot Crescent NW and 140 Crowfoot Crescent NW dated April 30, 2012

and May 28, 2012, respectively. The sales showed a capitalization rate of 6.78% and 5.13% respectively, with a median of 5.96% and an assessed rate of 6.00% (R-1, p. 140). The 2013 assessments of these properties showed a capitalization rate of 6.25%.

Board's Reasons for Decision:

[13] The Board recognizes that both parties had a limited number of sales to rely upon to determine a capitalization rate for power centres. That given, the Board finds the following in respect to power centre capitalization rate:

- 1) Both parties relied upon the assessed NOI of the sales provided;
- 2) Both parties relied upon the sales of 20/60 Crowfoot Centre NW and 140 Crowfoot Centre NW;
- 3) The sale of 850 Crowfoot Crescent, presented by the Complainant supports the assessed capitalization rate of the subject property at 6.00%.
- 4) Little reliance can be placed on the sale of 3320 Sunridge Way NE, presented by the Complainant as an investment grade market indicator at 6.55%, as it is classified as a neighbourhood centre, not a power centre, and was used in the 2013 neighbourhood capitalization rate study by the Respondent;
- 5) The sale at 155 Crowfoot Way NW, presented by the Complainant, assessed as a power centre, was shown by the Complainant to have been equitably assessed as in comparison to other properties in the *Crowfoot* power centre. Although its 2014 assessment of \$5,980,000 exceeds that of its June 2012 allocated sale by almost \$2 million, the Board finds that this sale may be suspect in that:
 - i. it was part of a sale that included two other properties;
 - ii. The property had been previously marketed, but was not on the market at the time of sale; and
 - iii. the parties were known to each other, and may share directorship in a corporation whose shares are held by the purchaser.
- 6) The assessed capitalization rate of 6.00%, as determined by the Respondent, is based on the median of two values, 6.78% and 5.13%; however, a sale of 850 Crowfoot Crescent NW at 6.03% supports the assessed capitalization rate of 6.00%.

[14] Regarding the rental rate of power centre space, the Board finds the Respondent has determined rental rates by analyzing leases on a per power centre basis, for sub-components smaller than 14,000 square feet, as being most reflective of market rent. Where there are four or more leases per sub-component, for sub-component space less than 14,000 square feet, the Respondent has applied a 30 month rule, sometimes extending it to 48 months; however, in sub-components where there are fewer leases, the Respondent has included older leases (for sub-component space less than 14,000 square feet), and city-wide (for sub-component space larger than 14,000 square feet). The Board, based on consistency of approach, accepts that any and all valid leases should be considered to determine market rent for any given sub-component. That said:

- 1) For CRU 0-1,000 square feet space, the Board finds the seven leases relied upon the Respondent determine the market rate of \$28.00 per square foot, and presented by the Complainant, even though two the leases may have commenced in 2006 for ten year term and may have been "stepped-up" still represent valid leases, better represent the market rent for this CRU sub-component than the five leases relied upon by the Respondent to determine the 2014 market rate for this sub-component.
- 2) For the CRU and pad 2,501-6,000 square foot space, the Board finds the 2013 lease analysis, prepared by Complainant that included seven of the same leases relied upon by the Respondent to determine the 2013 market rate for this sub-component, to better support the market rate of \$27.00 per square foot, then the subset of the five most recent leases relied upon by the Respondent to determine a 2014 market rate of \$31.00 per square foot.
- 3) For the CRU 14,001-40,000 square foot space, the Board finds the Respondent's analysis the four leases in *South Trail Crossing* and the Respondent's 2011 lease rate analysis containing 30 valid leases city wide, both better support a market rate of \$17.50 per square foot, than the Respondent's truncated 2014 lease analysis.

[15] Based on its consideration of the foregoing the Board: confirms the assessed capitalization rate of 6%; and, reduces the rental rate of CRU 0-1,000 space from \$38.00 to \$36.00 per square foot, CRU and pad 2,501-6,000 space from \$32.00 to \$27.00 per square foot, and CRU 14,001-40,000 space from \$19.50 to \$17.50 per square foot. In summary, the Board revises the value of the subject property as follows:

Potential Net Income

Sub Component	Area (Sq.Ft)	Rate	Total
Auto Repair	9,042	17.50	158,235
Auto Service	2,797	29.00	81,113
Bank	8,949	33.00	295,317
Big Box 14,001-40,000	69,235	17.50	1,211,613
CRU 0-1,000	1,998	36.00	71,928
CRU 1,001-2,500	37,950	31.00	1,176,450
CRU 2,501-6,000	52,473	27.00	1,416,771
CRU 6,001-14,000	40,555	19.00	770,545
Gas Bar	1	105,000.00	105,000
Mezzanine	1,975	2.00	3,950
Pad 2,501-6,000	12,854	27.00	347,058
Dining Lounge	17,359	26.00	451,334
Fast Food	8,592	33.00	283,536
Super Market	49,395	15.00	740,925
	<u>313,175</u>		7,113,775

Effective Net Income

Less Vacancy (1%)	12,156
Less Vacancy (2%)	117,964

Net Operating Income

Less Vacant Space Shortfall (\$8.00)	44,411
Less Non Recoverables	69,837

Market Value**6,869,407**

Capitalization Rate (6.00%)	114,490,115
Value	\$ 114,490,000

DATED AT THE CITY OF CALGARY THIS 14 DAY OF August 2014.


L. Loven
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 Disclosure
4. C3	Complainant Disclosure
5. C4	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.*