

**COMPOSITE
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 Inc. (as represented by Altus Group Ltd.), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

C. J. Griffin, PRESIDING OFFICER

R. Roy, MEMBER

A. Wong, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 201576014

LOCATION ADDRESS: 2929 Sunridge Way NE

HEARING NUMBER: 66617

ASSESSMENT: \$23,750,000.

This complaint was heard on 11th, 12th and 13th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- A. Izard
- B. Neeson
- K. Fong
- D. Hamilton

Appeared on behalf of the Respondent:

- B. Thompson
- R. Ford

Procedural or Jurisdictional Matters:

The Complainant brought forward a Preliminary Issue related to their request for information, from the Assessor, under Sections 299 and 300 of the Municipal Government Act (MGA) and the ensuing response from the Assessor which the Complainant maintains did not meet the requirements of Section 299 of the MGA. As a result of this response the Complainant requested that the CARB not allow the Assessor to introduce their evidence brief pertaining to this property as same includes much of the requested, but allegedly not produced, information.

The Assessor maintains that the information provided to the Complainant does in fact meet the requirements of Section 299 of the MGA and thus their evidence brief should be allowed.

The CARB was advised, by both parties, that this matter has been forwarded for Ministerial Review. In that a decision of the said Ministerial Review has not yet been released, the CARB is of the judgment that the Merit Hearing should proceed and the evidence brief of the Assessor will be allowed.

As a matter of Procedure, and with the agreement of both parties, the CARB heard, on this same date and from these same Parties in Hearing #67234, an extensive capitalization rate argument and all of the evidence and argument related to same is now carried forward and becomes applicable to this Assessment Complaint, as well as other Complaints scheduled to be heard by this same panel of the CARB, with the same parties, this same week.

Property Description:

According to the *Property Assessment Public Record* (Exhibit C-1 pg. 22), the subject property is categorized as being a CM1402 – Retail – Shopping Centre – Community with an A- quality rating. The property consists of four (4) structural components ranging in size from 4,482 Sq. Ft. to 52,318 Sq. Ft. The Year of Construction (YOC) for two of the components is recorded as 2008 while the YOC of the two remaining structures is recorded as 2006 and 2012. The underlying site is reported as being 8.48 acres in size.

The property has been valued, for assessment purposes, through application of the Income Approach with the following inputs:

<u>Category</u>	<u>Rentable Area</u>	<u>Rental Rate</u>	<u>Typical Vacancy</u>
Major Tenants	50,624 Sq. Ft.	\$17.00/Sq. Ft.	1.00%
CRU 1,000 – 2,500 Sq. Ft.	7,410 Sq. Ft.	\$25.00/Sq. Ft.	6.25%
CRU 2,501 – 6,000 Sq. Ft.	4,482 Sq. Ft.	\$24.00/Sq. Ft.	6.25%
CRU 6,000 – 14,000 Sq. Ft.	20,312 Sq. Ft.	\$21.00/Sq. Ft.	6.25%
Retail Bank	5,257 Sq. Ft.	\$45.00/Sq. Ft.	6.25%
Vacant Space Shortfall @	\$8.00/Sq. Ft.		
Non-Recoverable Allowance @	1.00%		
Capitalization Rate @	7.25%		

Issues:

There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issues to be considered by the CARB to:

1. The Assessor's applied capitalization rate of 7.25% is excessively low and not reflective of the market conditions as at the designated valuation date and the resultant assessed value is incorrect. The appropriate capitalization rate should be 7.75%.
2. The Assessor has applied the incorrect rental rate of \$45/Sq. Ft. to the bank space in the belief that same was constructed in 2008 or later. The space in question was constructed in 2007 and should therefore be given the \$33/Sq. Ft. lease rate applied to bank space constructed prior to 2008.

Complainant's Requested Value: \$20,240,000. (revised at the Hearing)

Party Positions:

Complainant's Position

The Complainant's evidence and argument relating to the capitalization rate issue is the same as that presented to this same CARB in Hearing # 67234 and as agreed to by both parties and the CARB (refer to Procedural Matters) all of that evidence and argument is deemed applicable to this Hearing.

Insofar as Issue No. 2 is concerned, the Complainant produced (Exhibit C1 pgs. 45 & 46) a copy of the *Tenancy Schedule* for the subject property which clearly shows the subject credit union space to have been occupied in October of 2007. Accordingly the correct assessed rental rate to be applied to the subject space is the Year of Construction (YOC) pre 2008 rate of \$33/Sq. Ft.

Respondent's Position

The Assessor brought forward a recommendation in the amount of \$22,430,000 (Exhibit R1 pg. 10) which would correct an error in the assessment whereby one space category was inadvertently counted twice. This recommendation makes no other adjustment to the assessed value or the inputs used to derive same.

The Assessor's evidence and argument relating to the capitalization rate issue is the same as that presented to this same CARB in Hearing # 67234 and as agreed to by both parties and the CARB (refer to Procedural Matters) all of that evidence and argument is deemed applicable to this Hearing.

Insofar as Issue No. 2 is concerned the Assessor acknowledges that their copy of the rent roll, obtained from the property owner through the *Assessment Request For Information* (ARFI) (Exhibit R1 pg. 14) does in fact indicate an occupancy date in 2007; however, the Respondent also referred the CARB to (Exhibit R1 pg. 11) a copy of a computer screen shot, from the *Assessment Business Unit* (ABU) showing the YOC as being 2008. The Assessor agrees that the latter may simply have been an input error.

Board's Decision:

The assessment is **reduced** to **\$20,240,000**.

Decision Reasons:

With regard to the capitalization rate issue and as agreed to by both parties (see Procedural Matters) the CARB accepts the evidence and argument of the Complainant in this regard and agrees that the appropriate capitalization rate for this property is 7.75%. The Reader is referred to CARB decision #0570-2012-P for further details regarding this decision.

With regard to the issue of the appropriate rental rate to be applied to the credit union space, the CARB is of the judgment that occupancy date reported by the property owner as shown on the Respondent's ARFI form is the more reliable information. Accordingly, the appropriate rental rate should be \$33/Sq. Ft. as this is the rate applied to bank space with a YOC of pre 2008.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF JULY 2012.



C. J. Griffin,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant's Capitalization Rate Study
3. C3	Complainant's Rebuttal
4. R1	Respondent Disclosure
5. R2	Print Out of Assessor's Sales Data as found on their web site (Submitted at the direction of the CARB)

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.*