

**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:

Giuseppa Tudda and Teresa Tudda (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

F.W. Wesseling, PRESIDING OFFICER

S. Rourke, MEMBER

A. Zindler, 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 2012 Assessment Roll as follows:

ROLL NUMBER: 075005900

LOCATION ADDRESS: 5147 20 Ave SE

HEARING NUMBER: 68511

ASSESSMENT: \$3,540,000

This complaint was heard on 25th day of June, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *G. Good*

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

No specific jurisdictional or procedural matters were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint.

The Board agreed to hear the evidence regarding the Capitalization Rate Analysis for this file jointly for files 68225 (CARB #0770-2012-P), 67936 (CARB #0774-2012-P), 67778 (CARB #0769-2012-P)

Property Description:

Subject property is a strip mall containing multiple retail units located in the community of Forestlawn Industrial. The building consists of 21,547 square feet located on a 0.96 acre parcel. The building was constructed in 1979 and has a C+ quality rating for assessment purposes. The City of Calgary Land Use bylaw classified the site with a land use designation of "Commercial-Corridor 3".

Issues: The Complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount

Presentation of the Complainant and Respondent were limited to:

- Assessment market value is overstated in relation to comparable properties.
- Capitalization Rate Analysis

Complainant's Requested Value: \$3,240,000

Board's Decision in Respect of Each Matter or Issue:

Complainant's Position: The primary issue addressed by the Complainant is that the capitalization rate of 7.5% applied to the 2012 assessment is too low and not reflective of current market conditions. A capitalization rate of 7.75% is requested. In support of the capitalization rate request, the Complainant presented a Strip Shopping Centre capitalization rate analysis. This analysis, using a quadrant approach, and utilizing numerous properties and rent roll information showed that in SE Calgary the capitalization rate should be 7.76%. This is based on four sales.

The other issue raised is a size discrepancy. It is requested that the assessed area be reduced from 21,547 square feet to 20,325 square feet. Rent roll data was provided to outline

this request.

Respondent's Position: The City provided a review of the Complainant's capitalization rate analysis and indicated that while they agree with the methodology used, the sample of properties used is too small and that the quadrant approach is not workable. General background was provided as to the historic and current approach used by the City to determine cap rates for the City as a whole. In addition, third party data was provided to support the current capitalization rate. Specifically the Respondent reviewed the sales utilized by the Complainant and indicated that one of the sales was not suitable for the analysis. Correction applied based on that information showed that the capitalization rate applied by the City was correct.

With regard to the size discrepancy issue raised, the Respondent noted that this property has been on the tax roll over 20 years and that the size issue has not been brought up before. In addition, it was noted that under Section 295(1) of the Municipal Government Act, the owners of the property have been non-responsive for the last 4 years to the City's request for information under the ARFI process. This process would provide the owners of the property an avenue to correct any factual errors.

Board's Decision:

Upon reviewing the verbal and written evidence provided by the parties, the Board considers that amendments to the assessment are not warranted for the following reasons:

- The Board noted the lack of response over the last 4 years by the property owners with regard to the request for information under the ARFI process [Municipal Government Act Section 251(1)]. The Board is satisfied that ample opportunities exist to property owners to correct factual errors with respect to assessment data. The Board did not accept the rent roll information presented by the Complainant as it lacked information such as effective date and lease periods amongst others
- While the Board accepted the Complainant's Capitalization Rate Analysis as well laid out, it determined that the data, particularly as corrected by the City's information, supported the capitalization of 7.5 % as applied in the assessment. Comparability of properties utilized to derive the "quadrant" capitalization rate was problematic from the Board's perspective. The Board was unable to accept the quadrant capitalization rate analysis as presented by the Complainant.
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Based on the evidence provided, the assessment is confirmed at \$3,540,000.

DATED AT THE CITY OF CALGARY THIS 20 DAY OF July 2012.



F. W. Wesseling
Presiding Officer

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

NO.	ITEM
1. C1	Teresa Tudda 5147 20 Ave SE Complainant Disclosure
2. R1	Assessment Brief 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.*

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<i>Decision No.</i>		<i>Roll No.</i>		
<u><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	Strip mall	Capitalization Rate and rental rates	Land and improvement comparables	Sectoral approach