

**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:

***Canadian Property Holdings (Alberta) INC. (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: 200101657

LOCATION ADDRESS: 5303 68 AVE SE

HEARING NUMBER: 67936

ASSESSMENT: \$7,920,000

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:

The complainant requested to speak to Section 9(4) of *Matters Relating to Assessment Complaints Regulation (MRAC)* and this Board's jurisdiction to hear certain evidence submitted by the Respondent that was not provided by the City in response to requests made under Sections 299 and 300 of the *Municipal Government Act*. This jurisdictional matter also applied to file 68225 (CARB #0770-2012-P). Specifically the Complainant requested that page 16 of the Respondent's submission (R1) be struck as this information had been requested under section 299 and 300 of the Act and not been provided. Both Complainant and Respondent provided a brief background on the information request and associated correspondence.

The Board reviewed the presentations and correspondence associated with the jurisdictional matter raised. The Board decided, in recognition of Sections 299 and 300 of the *Municipal Government Act* and in compliance with section 9(4) of *MRAC* that the Respondent had not met the requirements of the legislation outlined. As such the Board strikes page 16 of the Assessment Brief (R1) prepared by the City of Calgary.

The Board agreed to hear the evidence regarding the Capitalization Rate Analysis for this file jointly for files 68225 (CARB #0770-2012-P), 68511 (CARB #0768-2012-P), 67778 (CARB #0769-2012-P)

Property Description:

Subject property is a four building strip mall containing multiple retail units located in the community of Great Plains. The parcel consists of 3.43 acres. The buildings range in size from 8811 square feet to 3400 square feet and were constructed between 2002 and 2008. The buildings have an A+ and A2 quality rating for assessment purposes. The City of Calgary Land Use Bylaw classified the site with a land use designation of "Commercial Neighbourhood 2 District".

Issues: The Complainant raised the following matter in Section 4 of the Assessment Complaint form: Assessment amount being in excess of market value.

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: \$7,000,000

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.

An additional concern outlined is the assessed bank rate of \$45.00 per square foot as not being indicative of market value. The actual lease rate at \$35.75 per square foot was provided as well as a number of additional comparable leases for bank space throughout the City. The mean of those properties is \$31.01 per square foot while the median is \$32.25 per square foot.

The subject property sold for \$6,636,997 in December of 2009 and the Complainant argued that the sale price is the best indicator of market value. The sales agreement was presented for the Board's consideration.

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. Corrections applied based on that information showed that the capitalization rate applied by the City was correct.

The Respondent was not in a position to provide comparable bank lease rates due to the decision of the Board with regard to the preliminary matter raised by the Complainant.

Board's Decision:

Upon reviewing the verbal and written evidence provided by the parties, the Board found that amendments to the assessment are warranted for the following reasons:

- The Board accepts the recommendation that an adjustment from \$45.00 per square foot to \$35.75 per square foot for the bank is warranted. The actual lease rate was provided as well as comparable lease rates for banks which showed an adjustment is warranted.
- 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, along with the subject site at a capitalization rate of 7.63 %, supported the capitalization of 7.5 % as applied in the assessment. The comparability of properties was problematic from Board's perspective. The Board was unable to accept the quadrant capitalization rate analysis as presented by the Complainant.
- The Board acknowledges that the sale of the property provides a clear indication of a property market value and with the passage of time and the adjustment provided the revised assessment is fair and equitable.

Based on the evidence provided, the assessment is revised to \$7,240,000

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	Great Plains Plaza 5303-68Ave SE
2. R1	Assessment Brief
	Complainant Disclosure
	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, bank lease rate