

**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:

***Westfield Sunridge Spectrum Ltd (as represented by Fairtax Realty Advocates Inc),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Earl K Williams, PRESIDING OFFICER
J. Rankin, 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 2011 Assessment Roll as follows:

ROLL NUMBER: 049014400

LOCATION ADDRESS: 2555 32 ST NE

HEARING NUMBER: 64240

ASSESSMENT: \$37,780,000

This complaint was heard on 22 day of June, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- Syd Storey

Appeared on behalf of the Respondent:

- T. B. Johnson

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

No Preliminary, Procedural or Jurisdictional Matters were raised.

Property Description:

The subject property known as Sunridge Spectrum is a 127,983 square foot Neighbourhood Shopping Centre on 15.91 acres (693,219 square feet) of land in the Community of Sunridge. The major tenants are Cineplex Odeon, Chapters, Bank of Montreal, pad restaurants and a number of CRU's of varying square footage.

Issues:

Rental Rate – the assessed rental rate, expressed on a per square foot (psf) basis for selected tenants be reduced as follows:

Tenant	Complainant	Respondent
Theatre (Cineplex Odeon)	\$20.00	\$22.00
Junior Big Box (Chapters)	\$15.25	\$17.00
Bank (Bank of Montreal)	\$28.00	\$29.00

Cap Rate – the cap rate utilized in the Income Approach be increased from 7.25% to a blended cap rate of 7.50% which recognized the tenant mix at the subject property.

Complainant's Requested Value:

\$34,394,212

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

The Complainant and Respondent presented a wide range of evidence consisting of more relevant and less relevant evidence.

The Complainant's evidence package included tenant leases, rent roll for the subject property, Assessment Valuation Summaries, an investment review of the Calgary commercial real estate market, and a commentary on cap rates as well as various financial spread sheets. A Summary of Testimonial Evidence was not included with the evidence.

The Respondent's evidence package included a Summary of Testimonial Evidence; photographs of the property, the Non Residential Properties – Income Approach Valuation work sheet used by the City of Calgary and market information.

Rental Rate

Complainant presented as evidence for the requested rental rates the specific lease for Cineplex Odeon, Chapters and the Bank of Montreal, the rent roll for the subject property and the operating cost recovery calculations. The Complainant argued that the actual lease rates are reflective of the market for the subject property as well as recognizing the particulars of the leases related to common area costs. A review of the rent roll by the Board determined that the particular leases had lease commencement dates in 2000. No evidence was presented in respect of current market rental rates for comparable properties.

The Respondent presented one comparable in support of the theatre rental rate. The comparable on Macleod Trail SE reported a rental rate of \$24.00 psf as reported on the Assessment Request For Information ("ARFI") filed with the City of Calgary. Limited details were provided.

Board Decision

Based on the evidence presented and the lack of market comparables in the Complainant's evidence and argument the Board decided in favour of the Respondent and confirmed the rental rates as follows:

Tenant	Respondent
Theatre (Cineplex Odeon)	\$22.00
Junior Big Box (Chapters)	\$17.00
Bank (Bank of Montreal)	\$29.00

Cap Rate

The Complainant spoke to the subject property's owners approach with respect to cap rates when making acquisitions. Based on this information the Complainant argued that the cap rate utilized in the Income Approach must be a blended cap rate which reflects that risk varies by tenant and cap rate is a measure of risk. Based on this position the Complainant requested a weighted cap rate of 7.50% based on the following:

Tenant	Cap Rate (%)
Theatre (Cineplex Odeon)	8.00%
Restaurants	7.50%
General Shopping	7.00%

However no market information on cap rates was presented by the Complainant.

The Respondent's evidence in support of the 7.25% cap rate was the Income Approach Valuation work sheet for the subject property presented on pages 27 and 28 of the evidence package.

Board Decision

Based on the evidence presented and the clear lack of market comparables in the Complainants evidence and argument, the Board confirmed the Respondent's cap rate of 7.25%.

Board's Decision:

Based on the Complainant's insufficient evidence in respect of market comparables for rental rate and cap rates as well as the focus on the leases for each of the specific tenants the Board confirmed the Assessment of \$37,780,000.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF July 2011.



Earl K Williams
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. 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.*