

**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 Tire Real Estate Limited (as represented by AEC International), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, D. Pollard
Board Member 2, K. Farn***

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: 086148202

LOCATION ADDRESS: 5200 – Richmond Road SE

HEARING NUMBER: 63449

ASSESSMENT: 14,740,000.00

This complaint was heard on 23 day of June, 2011 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom One

Appeared on behalf of the Complainant:

- *Mr. J. Luong*

Appeared on behalf of the Respondent:

- *Mr. Ian McDermott*
 - *Mr. Eliseo D'Altorio*

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

The property complaint was heard in conjunction with Roll numbers 200466050 and 130150204.

There were no procedural or jurisdictional matters to be dealt with.

Property Description:

The subject is a single storey free standing Canadian Tire store, located in the "West Hills" community. The building comprises 72,861 s.f. of gross leaseable area plus 34,811 s.f of mezzanine, and a gas bar. The building is approximately 35 years old.

Issues:

(from the Executive summary of the Complainant)

".....the assessments of the subject properties have been unfairly increased in the 2010 to 2011 time frame and as a result the atypical rates applied to the subjects are unfair and inequitable."

"The principle differences between AEC's value determination and that of the City of Calgary are the use of a typical rental rate vs. Actual lease rates in the marketplace, equity considerations and the capitalization rate".

Both parties used the income approach to value in the determination of their respective values.

The Claimant used a rental rate of \$10.00 per s.f. and a capitalization rate of 7.75 per cent.

The Respondent used a rental rate of \$14.00 per s.f ,and a capitalization rate of 7.25 per cent.

The \$1.00 per s.f rate applied to the mezzanine storage area was not disputed by the Complainant. Similarly, the assessment of the gas bar is not in dispute.

Complainant's Requested Value: \$10,070,000.00

Evidence

In the evidence submission, the Complainant submitted a Calgary market survey that included the lease rates of various types of larger retail properties. The survey produced the following results;

Type;	Average rental Rate	Median Rental Rate
Department Stores	\$4.50	\$4.50
Box Store	\$5.86	\$5.70
Box Store (Wal-mart)	\$8.21	\$7.78
Grocery Store	\$14.05	\$14.80
Canadian Tire	\$14.48	\$14.50

Throughout the submission, the Complainant held that the subject leases were "atypical". In his evidence submission, the Complainant states; "Given that the Canadian Tire leases are atypical in comparison to similar and comparable large retail in the City of Calgary little weight was given to the leasing activity".

Both parties agreed that a 1.0 per cent vacancy rate is appropriate.

The Complainant presented a capitalization rate survey containing eight properties that show a capitalization rate range from 7.3 to 8.4 per cent. No rental information for any of the surveyed properties was included, and no explanation as to how the individual capitalization rates were derived was presented.

A Cost Development model, designed to illustrate the rent required to justify the capital cost of a property was also presented for the subject property. While this type of model is useful, in the input of some applications, the results are fraught with uncertainty. The results can vary depending on development costs, land values, lease term/amortization period, financing interest rates, and a number of other factors.

Finally, the complainant submitted a single transaction involving a former Wal Mart Store in South Edmonton Common. The Complainant conducted an analysis to determine the rental rate that would flow from the \$15,000,000 selling price. However, the result of the analysis is simply the product of the inputs used by the Complainant.

In support of the assessment, the City presented six Big Box Store leases, reflecting rents ranging from \$12.00 to \$16.65 per s.f. Leased areas range from 51,403 to 99,650 s.f.. That range brackets the subject's 72,861 s.f. For stores over 100,000 s.f. two comparables were presented, showing rents of \$9.59 and \$10.00 per s.f.

The Respondent also presented eight equity comparables showing box stores 51,403 and 99,650 s.f. of retail area, with an assessed rental rate of \$14.00 per s.f., and 33 comparables over 100,000 s.f. reflecting assessed rents at \$10.00 per s.f.

In developing a capitalization rate, the Respondent used what were determined to be typical rents, rather than using the actual rents in place. The average and median rate produced for Neighborhood and Community Centres was 7.16 and 7.12 per cent. For Power Centres, the average and median rates appeared at 6.99 and 7.07 per cent. No analysis for Box Stores was presented.

Board's Decision

The Board agrees that valuing a property using the income approach must be based on consistent methodology. The Board is satisfied that the Respondent's methodology, using typical rents and operating costs, is consistent.

Other than the assertions of the Complainant, no evidence was presented that would lead this Board to conclude that the existing lease on the subject property is atypical, or that the existing rent is not reflective of market levels. The actual rent survey presented by the Complainant shows Canadian Tire store rents at approximately \$14.50 per s.f. The Respondents rent comparables support a rent level between \$12.00 and \$16.65 per s.f. The Board agrees that \$14.00 per s.f. is appropriate for the subject's retail area. Having said that, this Board is not convinced that the City's rent stratification is entirely without fault. The Board recognizes the challenges faced by the City in stratifying properties by class (size). However, there remains a problem with equity near the "break point" from one class to the next. In the marketplace, typical rent levels do not change suddenly and substantially at a specific size. While the City's stratification might be necessary to accommodate the "model" for mass appraisal purposes, it does not, in the Board's opinion, reflect typical market behaviour.

The mezzanine rental rate of \$1.00 per s.f, and the gas bar at \$45,000 is not in dispute.

In total, The Respondent's capitalization rate study included 12 properties, to which typical rents, vacancy, and costs were applied to derive a typical net operating income. Upon review, however, there appears to be conflicting information about many of the properties. Of the 12 properties, the RealNet sales card reports a different capitalization rate from the rate reported by the City in six instances. Neither rate was verified for the Board. Five transactions reportedly occurred outside of the valuation date, one was post facto, one is a sale lease back, six might be affected by excess land, and so forth. The board finds that four transactions are the least affected by extraneous influences. These are 5220 – Falsbridge Drive NE, 1990 – Southland Drive SE, 20, 60 – Crowfoot Crescent NW, and 800 Crowfoot Crescent NW. The average capitalization rate of the four is 7.715 per cent, and the median rate is 7.775 per cent. The Board adopts 7.75 per cent as the appropriate capitalization rate.

Using the amended inputs, the revised assessment calculates to \$13,794,890.00

The revised assessment is truncated to \$13,790,000.00.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF July, 2011.



Jerry Zezulka
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Submission of Evidence, 2011
2. C2	Complainant, Support and Background
3. C3	Rebuttal Submission of the Complainant
4. R1	Assessment Brief of the City of Calgary
5. R2	Assessment Brief of the City of Calgary ; 9940 – Macleod Trail SE

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.*