

**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:

Harvest Hills Crossing Ltd.
(as represented by Linnell Taylor Assessment Strategies), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
S Rourke, MEMBER
A. Zindler, MEMBER

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

ROLL NUMBER: 201045846

LOCATION ADDRESS: 9650 HARVEST HILLS BV NE

FILE NUMBER: 66222

ASSESSMENT: \$34,620,000

This complaint was heard on 7th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *J. Mayer*

Appeared on behalf of the Respondent:

- *C. Yee*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject property is a retail shopping centre located in the "Aurora Business Park" community of NE Calgary. According to the information provided the property contains buildings of various sizes including a bank, commercial retail units (CRU's), restaurants, automotive centres and a supermarket. The buildings were constructed from 2006 to 2008 and have a total assessed rentable area of 136,519 square feet (SF). The buildings are situated on a 15.52 acre (675,996 SF) site that is zoned Commercial – Community 2.

[3] The subject is assessed using the Income Approach to Value. The potential net income calculation uses ten subcomponents, applying various assessment rental rates to automotive, bank, CRU, restaurant, storage and supermarket spaces respectively. All spaces include allowances for a 6.25% vacancy rate (1.00% for the supermarket), operating costs of \$8.00 and a 1.00% non-recoverable rate to calculate net operating income value. The net operating income is capitalized for assessment purposes using a 7.25% capitalization rate (cap rate).

Issues:

[4] The Complainant addressed the following issues at this hearing:

- 1) The storage space subcomponent should not be assessed.
- 2) The supermarket subcomponent should be reduced to an assessed rental rate of \$15.00 per SF from \$17.00 per SF.

Complainant's Requested Value:

[5] \$30,600,000 on the complaint form. \$33,091,000 at this hearing.

Board's Decision in Respect of Each Matter or Issue:**ISSUE 1: The storage space subcomponent should not be assessed.**

The Complainant provided an 81 page document entitled "Disclosure of Information" that was entered as "Exhibit C1". The Complainant, along with Exhibit C1, provided the following evidence or argument with respect to this issue:

[6] The storage area of the subject is made up of a 4,358 SF of basement space in one of the restaurant spaces and a 220 SF utility room in one of the CRU spaces or buildings. In the case of the restaurant basement space, it was the position of the Complainant, that under the terms of the signed June, 2010 lease, the owner does not collect rent for the restaurant's basement space specifically, but is "blended" with the upper floor's \$26.00 per SF rental rate. In the case of the CRU utility room, the Complainant suggested, that the owner does not collect rent for the space, that the space is at the rear of one of the CRU buildings, is not available to the tenant and its sole purpose is to store caretaking equipment of the subject property. Accordingly, it is the Complainant's request that the additional \$2.00 per SF assessment rate applied to the 4,358 SF basement storage space and the 220 SF utility room is not reflective of the market for this building and therefore should be removed from the assessment.

[7] A copy of a completed Assessment Request for Information (ARFI) completed in May, 2011. The ARFI showed that the Stonehill Restaurant and Tavern renegotiated a lease in June, 2010, whereby the 7,808 of leased area was rented for a lease rate of \$26.00 base rate per SF. According to the Complainant, the 7,808 leased area represents upper floor space. The 4,358 SF of basement space is not mentioned in the ARFI and is included in the rent of the upper floor space. In addition, the ARFI showed that the 220 SF utility space collected no rent.

The Respondent provided a 41 page document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence or argument with respect to this issue:

[8] Argument that the 4,578 SF storage spaces of the subject are assessed fairly and equitably with storage spaces of comparable properties.

The CARB finds the following with respect to this issue:

[9] That the Complainant provided no evidence that storage spaces do not have utility and therefore value in the market.

[10] That the Complainant provided no evidence that the storage space of the subject is not fairly or equitably assessed. In fact, there was evidence provided by the Complainant in his supermarket lease rate issue discussed below, that an assessment of an equity comparable known as Monterey Square Co-op was assessed a \$2.00 per SF rate for mezzanine or storage space.

ISSUE 2: The supermarket subcomponent should be reduced to an assessed rental rate of \$15.00 per SF from \$17.00 per SF.

The Complainant, along with Exhibit C1, provided the following evidence or argument with respect to this issue:

[11] The aforementioned ARFI indicated that the 52,371 SF supermarket space was leased at a rate of \$10.50 by the owner on a lease with a start date of November 9, 2006.

[12] A table of two supermarket market lease comparables with leased areas varying from 37,496 SF and 50,000 SF, lease start dates varying from December, 2011 and September, 2011 and leased rates varying from \$14.50 per SF and \$15.00 per SF respectively.

[13] The aforementioned Monterey Square Co-op supermarket equity comparable with leased area of 37,538 SF and an assessed lease rate of \$13.00 per SF.

[14] A City of Calgary Assessment listing of "Retail Neighbourhood/Community" shopping centres that listed the subject and the three market lease and equity comparables used by the Complainant in his analysis. The chart was intended to provide support that the market lease and equity comparables of the Complainant were considered similar by the City of Calgary Assessment Department.

[15] A comparative analysis of the market dynamics of the subject and the three market lease and equity comparables identified above. The analysis included a summarized chart comparing the populations, weighted average median incomes, traffic volume and competition within a two kilometre (km) radius of the subject and the comparables. In concluding the analysis, the Complainant suggested that the subject and comparables are similar in that they are on the periphery of residential neighbourhoods, are anchors within shopping centres, are similar in building size and have similar market dynamics.

The Respondent, along with Exhibit R1, provided the following evidence or argument with respect to this issue:

[16] A table of forty-five supermarket market lease comparables stratified by classes including Beltline, Class A, Class B and Class C. Class A properties indicated a prime or good location and newer or renovated stores, Class B properties indicated average and Class C properties indicated a less desirable location and generally older stores. The table included one Beltline comparable with a lease rate of \$23.50 per SF, twenty-one Class A comparables with lease rates ranging from \$8.40 per SF to \$26.45 per SF, fifteen Class B comparables with lease rates ranging from \$7.08 per SF to \$17.00 per SF and eight Class C comparables with lease rates ranging from \$4.00 per SF to \$12.50 per SF. The stratified assessments generally reflected the median lease rates of the respective class of supermarkets and were \$23.00 per SF for Beltline, \$17.00 per SF for Class A, \$13.00 per SF for Class B and \$9.00 per SF for Class C. It was noted that the subject was considered a Class A property and therefore assessed at a lease rate of \$17.00 per SF. The Respondent highlighted two Class A comparables that he considered to be most comparable to the subject. One at 12300 SYMONS VALLEY RD NW had a lease rate of \$17.00 per SF and the other at 500 COUNTRY HILLS BLVD NE had a lease rate of \$16.25 per SF.

The CARB finds the following with respect to this issue:

[17] That the subject property, considered Class A by the Respondent is on the lower end of the lease rate range of other Class A properties at \$10.50 per SF.

[18] That the two Class A properties considered most comparable to the subject by the Respondent are not listed by the City of Calgary Assessment chart as being a "Retail Neighbourhood/Community" shopping centres. During questioning the Complainant asserted and the Respondent acknowledged that those comparables formed a part of their respective power centres.

[19] That the three market lease and equity comparables of the Respondent are listed by the City of Calgary Assessment chart as being a "Retail Neighbourhood/Community" shopping centres and therefore are more similar to the subject.

Board's Decision:

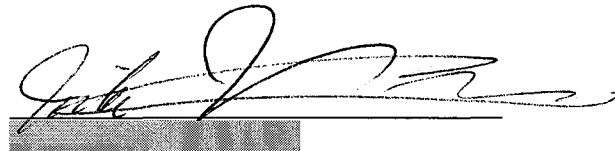
[20] The complaint is accepted in part and the assessment is revised to \$33,200,000.

The CARB provides the following reasons for the decision:

[21] The storage space issue or argument is not accepted by the CARB. The Complainant failed to provide any market evidence that storage space should not be assessable. The argument that the owner is not collecting rent on the storage space is not enough evidence to support this position. In the opinion of the CARB the storage space of the subject does have some utility and accordingly is equitably and fairly assessed by the Respondent with other storage spaces of comparable properties.

[22] The supermarket assessed lease rate of \$15.00 per SF is accepted by the CARB because it is comparable to the Complainant's lease rate comparables. The Respondent failed to qualify or quantify to the satisfaction of the CARB, the supermarket class stratification used by the Respondent in his assessment. Conversely, the Complainant satisfied the CARB that his comparables were most like the subject property in many respects. Of note is the fact that the three comparable properties of the Complainant and the subject were listed as "Retail Neighbourhood/Community" shopping centres by the City of Calgary assessment department, while the two best comparables of the Respondent were not.

DATED AT THE CITY OF CALGARY THIS 28 **DAY OF** August **2012.**



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.*

(For MGB Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Neighborhood Mall	Income Approach	Lease rates