

**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 and 2113362 Ontario Limited,
(as represented by AEC International),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Earl K Williams, PRESIDING OFFICER
J. O'Hearn, MEMBER
M Peters, 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	019121904
LOCATION ADDRESS	5404 Dalton Dr NW
HEARING NUMBER	63492
ASSESSMENT	\$15,990,000
ASSESSMENT PSF*	\$203.00

ROLL NUMBER	201058856
LOCATION ADDRESS	11938 Sarcee Tr NW
HEARING NUMBER	63491
ASSESSMENT	\$17,930,000
ASSESSMENT PSF*	\$194.00

PSF*: PER SQUARE FOOT

This complaint was heard on 15 day of July, 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:

- B Ryan

Appeared on behalf of the Respondent:

- B Thompson

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

The Complainant requested that the matters be heard together as the evidence packages are identical. The Respondent agreed.

Property Description:

The profile of the subject properties is:

- 5404 Dalton Dr NW: Canadian Tire Store, with a 1982 year of construction (yoc) on 8.59 acres of land with a total store area of 115,336 square feet comprised of a 78,889 square foot main floor and a 36,447 square foot mezzanine. The property has been assigned a Subproperty Use of CM0202 and is located near the Northland Village power centre.
- 11934 Sarcee Tr NW: Canadian Tire Store with a 2008 yoc on 7.97 acres of land with a total store area 106,692 square feet comprised of a 92,626 square foot main floor and a 12,066 square foot mezzanine. The property has been assigned a Subproperty Use of CM1403 and is part of the Beacon Hill power centre.

Based on the area of the main floor the subject properties for the purposes of Assessment are classified in the Big Box Retail Category of 50,001 to 100,000 square foot.

Issues:

Main Floor Rental Rate – the assessed rental rate, be reduced from \$14.00 per square foot (psf) to \$10.00 psf.

Capitalization Rate (Cap Rate) – the Cap Rate utilized in the Income Approach be increased from 7.25% to 7.75%

Complainant's Requested Value:

ROLL NUMBER	019121904
LOCATION ADDRESS	5404 Dalton Dr NW
ASSESSMENT	\$10,970,000
ASSESSMENT PSF	\$139.00
	201058856
ROLL NUMBER	
LOCATION ADDRESS	11938 Sarcee Tr NW
ASSESSMENT	\$11,990,000
ASSESSMENT PSF	\$129.00

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

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

The Complainant's evidence package included a description, maps and photographs of the subject properties; material related to the categories of big box, lease rates in the market and capitalization rates. The evidence also included information on properties outside of the municipality of the City of Calgary where the subject property is located.

The Respondent's evidence package included a Summary of Testimonial Evidence; maps and photographs of the property, the Non Residential Properties – Income Approach Valuation work sheet, the Assessment Request for Information ("ARFI") for each subject property, market lease rates, capitalization rates for recent market transactions, and assessment capitalization rates including an analysis of the Assessment to Sales Ratio ("ASR").

Rental Rate**Complainant**

The Complainant's position that the rental rate be reduced is based on City of Calgary introduction of a new category for Big Box retail for the 2010 assessment. The Big Box categories are now 50,001 to 100,000 sq ft. and 100,001+ sq ft; with the subject properties in the 50,001 sq ft to 100,000+ sq ft category. Previously the Big Box category was 100,001+ sq ft.

The Complainant argued that this new category is not supported by independent industry practice and evidence. In support of this position the Complainant presented material from Marshall & Swift manuals (pages 18 to 22 of exhibit C-1) to support the position that there is a hierarchical sub-classification of big box stores that is not reflected in the City of Calgary's new big box retail category.

Further the Complainant argued that the structures of leases utilized for Canadian Tire properties are atypical in comparison to the structure of leases for other larger big box retailers. To support the position that the Canadian Tire leases are atypical in comparison to other large retail leases in the City of Calgary the Complainant's evidence included an analysis of the lease rate for leases in the Calgary market. On page 23 of C-1 a summary of typical lease rates for properties similar and comparable to the subject reported:

- 3 Canadian Tire leases for buildings with areas ranging from 69,293 to 106,692 square feet with an average lease rate of \$14.48 psf and a median of \$14.50 psf.
- 2 Department Stores with an area of 187,635 and 240,000 reported a median lease rate of \$4.50 psf.
- 8 Box Stores with areas ranging from 96,132 to 143,021 square feet report a median lease rate of \$6.92 psf.
- 17 Grocery stores with areas ranging from 32,689 to 76,326 square feet reported a median lease rate of 14.80 psf

As additional evidence for their position that the subject properties are not "Big Box" and that the appropriate rental rate is \$10.00 psf the Complainant presented on pages 24-27 of C-1 an analysis of lease rates for 15 and 20 year terms. The Complainant presented Canadian Tire leases with a 15 year term amortized over 20 years compared to Big Box and Anchor tenant

leases with 15 and 20 year terms. All of the evidence presented on pages 24 to 27 included leases for properties located in municipalities outside of the City of Calgary, specifically 2 of the 5 Canadian Tire leases were for Calgary properties while only 11 of the 39 comparables were for Calgary properties. The inclusion of comparables outside of the municipality confounded the analysis and any conclusions to be drawn from the analysis.

Respondent

The Respondent presented on page 50 of evidence package R-1 a table titled "Lease Comparables", which provided particulars for 5 lease comparables in the 50,001 – 100,001 sq ft category. One of the lease comparables was for a lease which commenced in 1999 and was excluded by the Board from further analysis. The remaining four (4) leases reported lease commencement dates for the period 2005 to 2008, lease terms ranging from 10 to 20 years for areas ranging from 51,403 to 99,650 sq ft. The median rental rate was \$14.50 psf and a weighted average of \$14.10 psf.

The equity comparables presented by the Respondent for 16 Big Box in the 50,000 – 100,001 sq ft category and 32 comparables Big Box in the 100,001+ sq ft category further supported the application of the assessed rental rate of \$14.00 psf to the subject properties.

The Respondent included in Exhibit R-1 the Assessment Request for Information (ARFI) provided by the owners of the property. The ARFI's for the subject properties reported that:

- 5404 Dalton Rd NW is owner occupied so no lease information was provided;
- 11938 Sarcee Tr. NW has a 20 year lease term which commenced March 2008 at a annual rental rate of \$14.50psf.

Board Decision

Based on the evidence presented and the lack of market comparables in the Complainant's evidence and argument, the Board confirmed the rental rate for the main floor space of the subject properties to be \$14.00 psf

Capitalization Rate (Cap Rate)

Complainant

In support of their position the Complainant presented a commentary on Capitalization Rate which included a table titled, "Calgary Retail – Capitalization Rate Survey," on page 33 of exhibit C-1. This table was based on information provided by RealNet Canada Inc. and presented details on 8 Neighbourhood Shopping Centre transactions for the period July 2009 to May 2010. The cap rates ranged from 7.3% to 8.7% with an average of 8.0% and a median of 8.1%.

A review of the 8 transactions determined:

- 2 were Subproperty type – Free Standing, which would be most comparable to the subject properties, reported cap rates of 7.3% and 7.4%.
- 6 were Subproperty type – Community Shopping Centres with multiple tenants; the reported cap rates ranged from 7.4% to 8.7% with a median cap rate of 8.35%; 4 of the reported cap rates were in excess of 8.3%;

Respondent

The Respondent's evidence included a summary and analysis of cap rates for Neighbourhood Community Centres and Power Centres. A table on page 45 of R-1 presented the 2010 Published Capitalization Rates from 3 independent real estate brokerage and advisory firms. The following table presents the reported information:

Property Type	Q1 2010	Q2 2010
Neighbourhood	6.75% - 7.25%	6.75% - 7.25%
Power Centre	6.50% - 7.00%	6.75% - 7.25%

The Respondent presented on pages 46 through 49 a summary of capitalization rates for Neighbourhood Community Centres and Power Centres as well as the ASR using 7.25% and 7.75% cap rate.

Board Decision

Based on the evidence presented and the clear lack of market comparables in the Complainant's 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 the Board confirmed the Assessment as follows:

Location Address	Assessment	Assessment PSF
5404 Dalton Dr NW	\$15,990,000	\$203.00
11938 Sarcee Tr NW	\$17,930,000	\$194.00

DATED AT THE CITY OF CALGARY THIS 26 DAY OF OCTOBER 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. C2	Complainant Disclosure
3. C3	Complainant Disclosure
4. C4	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 ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue