

**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:

***2665 32nd Street Portfolio Inc.
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***L. Wood, PRESIDING OFFICER
R. Cochrane, MEMBER
I. Fraser, 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: | 049013808 |
| LOCATION ADDRESS: | 2665 32 ST NE |
| HEARING NUMBER: | 62997 |
| ASSESSMENT: | \$17,130,000 |

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 11.

Appeared on behalf of the Complainant:

- *Mr. K. Fong* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. S. Powell* *Assessor, City of Calgary*

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

There were no procedural or jurisdictional matters raised by the parties during the hearing.

Property Description:

The subject property is known as the Rona Home & Garden in Sunridge. The building is comprised of 94,216 sq. ft. and is situated on 381,916 sq. ft. of land (8.77 acres). The building has 90,788 sq. ft. assessed as big box space (50,001- 100,000 sq. ft.) and 3,428 sq. ft. assessed as non-retail mezzanine space. The assessment also reflects its sub-property use as a Retail Shopping Centre, Neighbourhood Shopping Centre. The land use designation is Commercial- Regional 3.

Issues:

1. The assessed rental rate for the subject property should be reduced from \$14.00 psf to \$10.00 psf.
2. The capitalization rate should be changed from 7.25% to 7.50%.

Complainant's Requested Value: \$11,820,000

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

1. The assessed rental rate for the subject property should be reduced from \$14.00 psf to \$10.00 psf.

The Complainant submitted the building used to be assessed as a freestanding building as opposed to a neighbourhood shopping centre. The result of the reclassification increased the subject property's assessment by 60% since last year's assessment (Exhibit C1 page 11).

The Complainant submitted the assessed rental rate for the subject property should be reduced from \$14.00 psf to \$10.00 psf. He presented several lease comparables that the City relied on for the subject property's assessment in 2010 which showed an average lease rate of \$10.32 psf (Exhibit C1 page 28).

The Complainant indicated the subject property is a single tenanted building on one land titles certificate, similar to the adjacent Costco or Superstore which are assessed at a market net rental rate of \$10.00 psf (Exhibit C1 pages 62- 65). He submitted there are not many comparables similar in size to the subject property and as such the inventory is limited. He provided examples of lease comparables that were generating lease rates of \$14.49 psf and \$13.75 psf for smaller retail spaces (23,923 sq. ft. and 16,344 sq. ft.) in Sunridge Corner (Exhibit C1 page 46).

The Complainant submitted the economic conditions are not as rosy as one might expect and there is substantial inventory on the market which is being leased at low rates. He provided a sublease for the property located at 3475 Sunridge Way NE (51,658 sq. ft.) dated June 30, 2010 which reflected rates escalating from \$4.50 psf to \$6.50 psf during a five year term (Exhibit C1 pages 29- 39). The Complainant also submitted a listing for retail space at 3320 20 Avenue NE (34,118 sq. ft.) that was advertised at \$7.00 psf although he acknowledged that A & B Sound has since leased that space for \$18.00 psf (Exhibit C1 pages 42- 45).

The Complainant submitted the Assessment Request for Information ("ARFI") for the subject property in support of the current assessment of \$14.00 psf is too high. It has a lease rate of \$10.61 psf (which commenced in July 2001) for 89,438 sq. ft. (Exhibit C1 page 51).

The Respondent conceded the five lease comparables that he put forward were not good comparables as they included a Safeway, a Casino and a Theatre (Exhibit R1 page 28). He indicated the comparables that the Complainant presented were superior (Exhibit C1 page 28). The Respondent submitted the best comparable is the Rona property located at 12330 Symons Valley Road NW which is 99,650 sq. ft. It leased for \$14.50 psf in November 2007 for a 20 year term.

Based on the lack of market evidence, the Board was not convinced to reduce the rental rate from \$14.00 psf to \$10.00 psf for the subject property. The Board placed little weight on the sublease as well as the listings that the Complainant provided as they are not indicative of market lease rates. The Board placed little weight on the lease of the subject property as it was quite dated, originating in July 2001, and as such, it provided little assistance in determining current market lease rates.

2. The capitalization rate should be changed from 7.25% to 7.50%.

The Complainant submitted that similar freestanding retail buildings in Sunridge are assessed at a 7.50% capitalization rate whereas the subject property is assessed at 7.25%. He provided the assessment summaries for Sear's Homes, Future Shop, Petland, A & B Sound, Costco etc (Exhibit C1 pages 52- 67). Based on equity, the Complainant argued the capitalization rate for the subject property should be the same at 7.50%.

The Complainant submitted the risk associated with a single tenant building that is 100% occupied is greater than the diversity of several tenants within a neighbourhood shopping centre. It is highly unlikely the tenants in a shopping centre would vacate the premises at the same time.

The Respondent submitted that the capitalization rate captures the risk associated with the property's ability to generate income. He submitted the Rona property is superior to the adjacent Costco property and it is enhanced by how it is built, with the parking lot integrated with

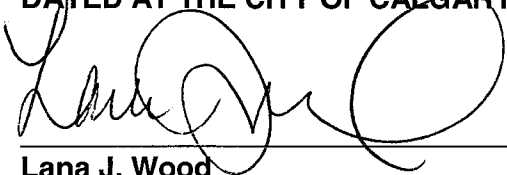
the property located to the south. As such, it is more akin to a neighbourhood shopping centre, which prompted the change in classification from last year. The capitalization rate for neighbourhood shopping centres is 7.25%.

The Board finds the Complainant failed to provide sufficient evidence to warrant a change in the capitalization rate. The Board notes neither party presented any sales information in which to base the capitalization rate.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$17,130,000.

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

A large, stylized handwritten signature in black ink, appearing to read 'Lana J. Wood', is written over a horizontal line.

Lana J. Wood
Presiding Officer

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

| EXHIBIT NO. | ITEM |
|--------------------|--------------------------|
| 1. C1 | Complainant's Disclosure |
| 2. C2 | Complainant's Rebuttal |
| 3. R1 | Respondent's 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.*