

**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 Property Holdings Inc. (as represented by the Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***P Petry, PRESIDING OFFICER
D Julien, MEMBER
J Rankin, 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:	049013907
LOCATION ADDRESS:	3014 Sunridge Boulevard N.E.
HEARING NUMBER:	63982
ASSESSMENT:	\$10,740,000

This complaint was heard on the 18th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *Mr. K Fong*

Appeared on behalf of the Respondent:

- *Mr. S Powell*

Property Description:

The subject property is located at 3014 Sunridge Boulevard N.E and is adjacent to large RONA Store to the North of the subject. The subject property was constructed in 1999 and has been classified as a neighbourhood shopping centre for 2011. The property includes a bank, commercial rental units (CRU) and a fast food restaurant all totalling 35,332 sq. ft. of rentable space. The property has been assessed using the capitalized net income approach at a value of \$10,740,000 or \$303.74 per sq. ft.

Preliminary Matter

The Respondent indicated that it had notice that the Complainant's rebuttal disclosure had been received late by the ARB and this evidence was also received approximately one day late by the Respondent. The Complainant indicated that he had not been aware of this but in any case was prepared to proceed without the rebuttal evidence and without arguing this matter.

On this basis the CARB ruled that the hearing would proceed without the rebuttal evidence being admitted.

Issues:

- 1) Should the subject property be reclassified to a strip shopping centre from its current classification as a neighbourhood shopping centre?
- 2) Should the capitalization (cap) rate be adjusted from the current rate of 7.25% to 7.5%?
- 3) Should the vacancy rate be increase from 6.25% to 8.75%?
- 4) Depending on the resolution of the classification matter and other evidence should the rental rates be reduced as follows:
 - a. bank space - \$26 per sq. ft.
 - b. CRU space (1000 – 2500 sq. ft.) - \$20 per sq. ft.
 - c. CRU space (over 6000 sq. ft.) - \$16 per sq. ft.

Other matters and issues were raised in the complaint filed with the Assessment Review Board (ARB) on March 7, 2011. The only issues however, that the parties sought to have the

Composite Assessment Review Board (CARB) address in the hearing on July 18, 2011 are those referred to above, therefore the CARB has not addressed any of the other matters or issues initially raised by the Complainant.

Complainant's Requested Value:

Based on the Complainant's requested changes to rental rates, the vacancy rate and the cap rate, the Complainant calculated the requested assessment for the subject property to be \$8,690,000.

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

- 1) The CRAB decision is that the neighbourhood shopping centre classification is correct for the subject property.
- 2) The vacancy rate of 6.25% is confirmed
- 3) The cap rate of 7.25% is also confirmed as being correct and equitable.
- 4) The CARB decision is to confirm the rental rates applied by the Assessor as being correct and equitable.

Summary of the Party's Positions

The Complainant argued that the subject property has been classified as a strip shopping centre in the past but this year the Assessor has incorrectly changed the classification to the neighbourhood shopping centre class. An Assessment Review Board (ARB) decision for 2009 and the City of Calgary's assessment for 2010 were submitted to support the strip centre classification history. To be class as a neighbourhood centre the centre must be anchored by either a major grocery store or drugs store. In the case of the subject the largest tenant is Mark's Work Warehouse and this tenant is not considered to be an anchor tenant.

The Complainant also provided information about three other centres for comparison. A property at 3475 26 Avenue N.E which is classified as a strip centre and is located across the street from "The Bay" at Sunridge Mall. This property has 25,726 sq. ft. of rentable area, rental rate below that of the subject and a cap rate of 7.5%. The second property at 3320 Sunridge Way N.E has been assessed with rents comparable to those requested by the Complainant and is also assessed using the cap of 7.5% as recommended by the complainant. The Third comparable is located at 3508 32 Avenue N.E and is classified as a neighbourhood centre, primarily because of the fact that there is a Safeway which, although not on the same roll number, the Assessor believes it nevertheless provides a similar anchor relationship. The rental rates used in this centre generally support the rental rates requested by the Complainant, however the cap rate does not. The Complainant also provided two undated Colliers International reports showing asking lease rates for space available in the old A&B Sound building at 3320 20th Avenue N.E to be \$7 per sq. ft. and \$25 per sq. ft. respectively. Both

parties alluded to the fact that approximately 10,000 sq. ft. of this space is currently being negotiated at a rate of \$18 per sq. ft. with a perspective tenant. The Complainant argued that the Sunridge area is undergoing a decline in economic conditions respecting property values and lease rates as evident in the A&B Sound asking rates and also a post-facto sub-lease to Stir Crazy which averages to \$12.80 per sq. ft. over the five year term.

The Respondent argued that the subject property shares the same parking lot with the RONA Store and the RONA provide the same benefits to the subject property as any other major anchor. A similar situation exists with the Complainant's comparable at 3508 32 Avenue N.E. where the Safeway store is next door and even though not on the same roll number, the Safeway in such close proximity provides similar economic synergy to those case where the anchor is on the same roll number. The Respondent defended the rental rate assigned to the subject arguing that rental rates are not consistent across all neighbourhood centres or strip centres as these rates are impacted by the quality and the condition of the space. Hence, when comparing one neighbourhood centre's rates with another's, differences in rates may arise. The Respondent provide a table showing 14 equity comparables in the N.E. within the same class as the subject and for CRU spaces between 1000 sq. ft. and 2,500 sq. ft., all being assessed at \$23 per sq. ft. as is the subject. The Respondent also provided two examples of properties with space in the 6,000 to 14,000 sq. ft. range, that are being assessed at a rate of \$20 per sq. ft. as is the subject.

With respect to other lease data referred to by the Complainant, the Respondent argued that asking rates and sub-lease rates are not good indicators of market rates. A good example is the asking rate of \$7 per sq. ft. for space in the old A&B Sound building compared to the new lease being negotiated for a portion of that space at \$18 per sq. ft.

The Respondent asked the CARB to confirm the assessment of the subject property suggesting that the assessed value is correct and equitable.

Findings and Reasons for the Board's Decision:

Shopping Centre Classification

The CARB has concluded that in certain circumstances the economic notion that anchor tenants have a beneficial impact on smaller retail space and associated pad space is likely true even when the anchor tenant is not on the same roll number as the other space. It appears that in the case of the subject that customers would not necessarily recognize or even care whether the RONA is owned by the same party who owns the subject. The advantage for the customer is that he or she can park in the common lot and access either the RONA and/or any business operating within the subject property. This same presumed synergy would exist with the Complainant's comparable at 3508 32 Avenue N.E where the Safeway is located on a different parcel but from a customer perspective this would not be apparent or matter. What seems clear to the CARB is that the important consideration is whether there is a clear or seamless continuity respecting the economic relationship between the properties which are suggested to be functioning as a neighbourhood centre. We find that argument to be compelling with respect to the subject and therefore agree with the Respondent that the neighbourhood classification is correct and equitable.

Vacancy Rate and CAP Rate

The values attached to both the vacancy rate and the cap rate appears to track more or less with the specific shopping classification. Having determined that the subject is properly classified as a neighbourhood centre and to be consistent with the typical values applied by the Assessor to that class the CARB has decided that the vacancy rate should remain at 6.25% and the cap rate should remain at 7.25%.

Rental Rates

The Complainant argued that the lease rates used by the Assessor for certain components of the subject property were not equitable with rates applied to similar properties. The CARB found it had very limited evidence on this matter. The Respondent's explanation respecting the age factor relative to bank rates was not refuted by the Complainant. The Complainant had brought forward various asking rates and sub-lease rates which the CARB determine could not be given much weight. Further the few inconsistencies among rates within the same classification of shopping centres appeared to be caused by variations in quality or condition factors. In the final analysis the Board felt it did not have sufficiently compelling evidence on which to base any change to the rentals rates used in preparing the assessment.

Summary

.The CARB concluded that the subject was correctly classified as a neighbourhood shopping centre and on that basis the vacancy rate and the cap rate would remain as applied by the Assessor. The CARB also found there was insufficient evidence to persuade the Board to adopt the changes recommended to the rental rates. The assessment for the subject property is therefore confirmed at a value of \$10,740,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF August 2011.



Presiding Officer
Paul G. Petry

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 in accordance with the Municipal Government Act as follows:

470(1) *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.*

470(2) *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).*

470(3) *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*

