

**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:

***Calgary Co-operative Association Limited (as represented by AltusGroup),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member 1, D. Morice
Board Member 2, D. Julien***

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: 016203309

LOCATION ADDRESS: 35 Crowfoot Way NW

HEARING NUMBER: 63994

ASSESSMENT: 25,440,000.00

This complaint was heard on 25 day of July, 2011 at the office of the Assessment Review Board located at Floor Number Three, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Twelve.

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *S. Turner*

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

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

Property Description:

The subject consists of the Calgary Co-op, located in the Crowfoot Power Centre in NW Calgary. The complex comprises 94,797 s.f. of gross area, including the grocery store, storage, gas bar, car wash, free standing liquor store, and CRU space. The complex was developed circa 1984, with upgrades in 1992, and 2010.

Issues:

(from the Summary of Testimonial Evidence of the Complainant)

1. ".....the current assessed capitalization rate of 7.25% is in error and that.....the correct capitalization rate to apply in this instance is 7.75%.
2. ".....the subject area has been stratified incorrectly".
3. ".....this property has an A-typical 32% warehouse/retail space.
4. ".....the mezzanine space be assessed for \$1.00 for 5,955 s.f".
5. ".....this grocery store is the largest in the City of Calgary, is from a mid 1980's vintage, has undergone minimal renovations yet it is being assessed the same as brand new grocery stores."
6. ".....the rental rates applied to the CRU spaces are in error".
7. ".....The subject ARFI as well as recent power centre leases indicate the value for CRU space should be: \$23 for 1,000 - 2,500 s.f., \$22 for 2,500 – 6,000 s.f., and \$20 for 6,001 + s.f."

Both parties used the income approach to value in the determination of their respective values. The incomes used by both parties are summarized as follows;

| <u>Space</u> | <u>Area (in S.F.)</u> | <u>Rent (per s.f.)</u> | |
|--------------------------|-----------------------|------------------------|-----------------------------------------------|
| | | <u>Respondent</u> | <u>Complainant</u> |
| CRU 0-1,000 s.f. | 848 | \$34.00 | \$34.00 |
| CRU 1,001 -2,500 s.f. | 5,113 | \$32.00 | \$23.00 |
| CRU 2,501-6,000 s.f. | 3,351 | \$28.00 | \$22.00 |
| Gas Bar, store, car wash | | \$105,000 | \$105,000 |
| Non-retail Mezzanine | 931 | \$1.00 | 5,955 s.f. @ \$1.00 |
| Pad, 6,001 – 14,000 s.f. | 10,317 | \$26.00 | \$20.00 |
| Super market | 74,236 | \$17.00 | 44,678 s.f. @ \$13.00 23,680 s.f. @ \$2.00 |

The only areas not in dispute include the 0 -1,000 s.f. CRU category, and the gas bar and store at \$105,000.00.

Complainant's Requested Value: \$13,010,000.00

Evidence

1.) Capitalization Rate

The Complainant submitted a Capitalization Rate analysis intended to show that a rate of 7.75 per cent was a more appropriate capitalization rate for the subject. Within the analysis, the Complainant stated that the net operating income used to generate a market value assessment must be derived from typical rates, while the rates used to determine a market capitalization rate must be actual rents. The study contained three comparables for analysis. The analysis was entitled "Leased Fee Estate (LFE) Valuation. During the hearing, the Complainant advised the Board that the heading should be removed, as the analysis was intended to be a Fee Simple analysis. Three comparable transaction were presented, all of which are in Crowfoot Centre. Two took place in 2009, and one occurred in 2010. The three reflected rates of 7.28 per cent to 7.95 per cent, with a median capitalization rate of 7.72 per cent. The Complainant submitted that the rates were derived by using actual selling prices, and actual rents. The rents, however, were stabilized with typical vacancy rate, typical non-recoverable allowance, and typical vacancy shortfall.

The Respondent used four transactions in the capitalization rate analysis. Two were common to the Complainant's evidence. One was post facto. While the Respondent used the actual selling price, all of the other inputs used, including the rents, were based on typical rates. The results of the analysis was a range of 6.34 to 7.97 per cent. The average and median appeared at 6.84 and 7.00 per cent. Excluding the post facto transaction, the average and median were 7.21 and 7.33 per cent. In addition, the Respondent presented third party evidence from published, reliable sources that capitalization rates for Power Centers ranged from about 6.50 to 7.00 per cent.

2)"The subject area has been stratified incorrectly."

3)"This property has an A-Typical 32% warehouse /retail space.

5) "this grocery store is the largest in the City of Calgary, is from a mid 1980's vintage, has undergone minimal renovations yet it is being assessed the same as brand new grocery stores."

The Complainant argued that the grocery store portion of the subject has an inordinately high proportion of storage space compared to more contemporary grocery stores, and that 23,680 s.f. of the area should be assessed as storage, at \$2.00 per s.f., rather than the \$17.00 per s.f. currently applied. In support of his contention, the Complainant submitted six grocery stores throughout the City that had smaller storage areas, assessed at \$2.00 per s.f. The Complainant then went on to submit renovation costs for six stores that were built pre-1984.,all of which were assessed at \$17.00 per s.f. in an attempt to demonstrate that these older stores had been modernized to bring them to more contemporary standards, whereas the subject had not. The average capital cost of renovations was shown at \$3,441,667, compared to \$250,000 for the subject.

The Respondent argued that the space typically assessed at \$2.00 per s.f. is generally unheated storage. The subject space, on the other hand, is heated, and is readily usable all year round. That assertion was uncontroverted by the Complainant.

4) “.. the mezzanine space be assessed at \$1.00 per s.f. for 5,955 s.f.”

While the Complainant argued that the mezzanine space be assessed at \$1.00 per s.f. to maintain equity with similar space throughout the City, the Respondent asserted that there simply was no mezzanine, except for 931 s.f. above the liquor store. That assertion was uncontested by the Complainant.

6.)”.....the rental rates applied to the CRU spaces are in error”.

7.)”.....The subject ARFI as well as recent power centre leases indicate the value for CRU space should be: \$23 for 1,000-2,500 s.f., \$22 for 2,500 – 6,000 s.f., and \$20 for 6,001 + s.f.”.

The Complainant submitted three sets of data to support his argument. For the 1,001 to 2,500 s.f. category, two City of Calgary ARFI forms were submitted for the subject. These indicate spaces of varying sizes less than 1,521 s.f, at rents of \$19.00 to \$27.00 per s.f. Lease dates range from February, 2006 to December, 2009. For the 2,501 to 6,000 s.f. category, 13 comparables were submitted. These reflected an average rent of \$25.25, and a median of \$22.00 per s.f. For space of 6,499 to 12,260 s.f. 13 comparables indicated an average rent of \$20.55 per s.f., and a median of \$19.75. None of these are in the same Power Center as the subject. All of the lease dates are 2008 to 2010. Some of this data was questioned by the Respondent, who maintained that many of the leases presented are not new leases, but are in fact step-up provisions of older, existing contracts.

The Respondent presented 20 lease comparables (page 53 of R-1) that reflect a median rent of \$36.00 per s.f., which is \$4.00 per s.f. higher than the current assessment for the same size category. All of the comparables are in the same power centre as the subject. Lease dates are 2008 to 2010. For the 2,501 to 6,000 s.f. size bracket, the Respondent presented five leases. The median rent was \$29.00 per s.f. All of the comparables are in the Crowfoot Power Center. Lease dates are 2007 to 2010.

Finally, 29 leases in the 6,001 to 14,000 s.f. range were presented. Of the total, ten leases are in the Crowfoot Power Centre. These reflect a median rent of \$27.00 per s.f. The City wide sampling reflects a median rent of \$29.05 per s.f. The current assessment applied to the subject is \$26.00 per s.f.

Board's Decision

With respect to issue the capitalization rate, the Board finds that the Respondents approach is the most consistent, in that all of the inputs used to develop the rate are typical rates. The Complainant, on the other hand, used actual rents, and then applied typical rates to arrive at a stabilized net operating income. The latter approach, in the Board's opinion, provides a better indication of the leased fee estate (as entitled on the Complainant's submission) than it does a value for the fee simple estate. The Board finds that the Respondents approach is the most appropriate, hence the Respondent's result is the most appropriate..

As far as the space stratification is concerned, the comparable renovation cost evidence

submitted by the Complainant might have been compelling. However, no evidence was introduced to show the nature of the renovations, or whether or not they were actually used to convert old storage space into usable area in the comparable properties. Whether or not the lessee is actually using the space for retail area or storage space is not the issue. The issue appears to be whether or not the space in question is capable of being used for a specific purpose, or purposes. The Board is not persuaded by the Complainant's evidence that the area in question cannot be used for retail or related space. Therefore, the Board is not inclined to alter the assessed rental rate.

The mezzanine space referred to by the Complainant is apparently non-existent.

Except for the two ARFI forms, none of the Complainant's evidence with regard to the CRU rent was derived from the Crowfoot Power Centre. On the other hand, the bulk of the lease data provided by the Respondent is from the same centre as the subject. In the Board's opinion, location is a major consideration in the analysis of any ingredient affecting market value. The evidence of the Respondent is the most convincing. The CRU rent of \$26.00 per s.f. is accepted by the Board.

For the most part, Board agrees with all of the inputs and analysis, and conclusions of the Respondent .

The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF August, 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 , Non-Residential Properties – Income Approach Valuation |
| 3. C3 | Complainant 2011 Capitalization Rate – Rebuttal Submission |
| 4. C4 | Complainant 35 _ Crowfoot Way NW, Rebuttal Submission |
| 5. R1 | City of Calgary Assessment Brief |

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.*

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|-----------------------------------|-----------------|--------------|---------------------------|---------------------------------------------------|
| <i>Decision No. 1493/2011 - P</i> | | | <i>Roll No. 016203309</i> | |
| <u>Subject</u> | <u>Type</u> | <u>Issue</u> | <u>Detail</u> | <u>Issue</u> |
| CARB | 2, Power Centre | Stand alone | Income approach | Capitalization rate, net market rent, lease rates |