

**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:**

**Millrise Plaza Ltd.  
(as represented by Altus Group Ltd.), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**J. Krysa, PRESIDING OFFICER  
J. Massey, MEMBER  
G. Milne, MEMBER**

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

<b>ROLL NUMBER:</b>	<b>200779627</b>
<b>LOCATION ADDRESS:</b>	<b>150 Millrise Boulevard SW</b>
<b>HEARING NUMBER:</b>	<b>68116</b>
<b>ASSESSMENT:</b>	<b>\$29,790,000</b>

The complaint was heard on August 23, 2012, in Boardroom 4 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- A. Izard; K. Fong; B. Neeson

Appeared on behalf of the Respondent:

- M. Ryan, S. Turner

**Jurisdictional Matter:**

During the course of the hearing, the Complainant raised a jurisdictional matter in respect of Respondent's evidence set out on pages 22 and 23 of exhibit R1. The Complainant submitted that a request for information relating to the evidence was made pursuant to section 299 of the *Act*, and the requested information was not provided to the Complainant as required by the legislation. The Complainant argued that pursuant to s.9(4) of *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, the Board must not hear the Respondent's evidence relating to the requested information.

The Respondent argued that information required to be provided to Complainants is provided on the municipality's website, and a recent Ministerial compliance review on the Complainant's request in respect of other properties determined that the municipality has not only complied with the legislation, but exceeded the requirements set out in the legislation. The Respondent further argued that disclosure of the requested information would be a breach of confidentiality as set out in section 301 of the *Act*, as the requested information relates to confidential lease data. The Respondent further submitted that the Complainant was invited to the Assessment Business Unit offices to see further information, if required.

In response, the Complainant argued that although he attended the offices of the Assessment Business Unit on two occasions, no further information was provided to the Complainant.

**Board's Decision in Respect of the Jurisdictional Matter:**

Section 299 of the *Act* allows an assessed person to see or receive sufficient information to show how the assessor prepared the assessment of that person's property.

If a municipality fails to comply with a valid s.299 request, section 27(6) of *Matters Relating to Assessment and Taxation Regulation*, AR 220/2004, sets out the process for a compliance review, and the consequences of non-compliance. A further consequence of non-compliance, however, is set out in section 9(4) *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, which grants the Board authority to exclude the municipality's evidence related to information that was not provided to the Complainant pursuant to a valid s.299 request.

The Respondent's evidence demonstrates that the Minister has conducted a compliance review in respect of one of the Complainant's s.299 requests, and has determined that the municipality has complied with the Complainant's request, in that instance. However, there has not yet been a Ministerial compliance review of the Complainant's request in respect of the subject property.

The question before the Board is: Does the Board have jurisdiction to impose (one of) the consequences of non-compliance set out in 9(4) of *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, if the Minister has not yet made a determination in respect of compliance?

**Decision:**

The Board finds that it has no jurisdiction with respect to determining compliance with a s.299 request for information; that authority is specifically provided to the Minister in s.27.6(2) of *Matters Relating to Assessment and Taxation Regulation, AR 220/2004*. The Board cannot grant itself jurisdiction to make a determination in respect of compliance just because the Minister has not yet made that determination. Consequently, the Board finds that it cannot impose the consequence of non compliance until a determination of compliance is made by the Minister. The Complainant's application to proscribe pages 22 and 23 of exhibit R1, pursuant to s.9(4) of *Matters Relating to Assessment Complaints Regulation, AR 310/2009* is denied.

Notwithstanding the above, the Minister's compliance review pursuant to s.27(6) of *Matters Relating to Assessment and Taxation Regulation, AR 220/2004*, wherein the Minister concluded that the Respondent has complied with s.299 of the Act by providing sufficient information to show how the assessor prepared the assessment for the properties in question, is informative for the Board and the Parties. Although the review was not related to the Complainant's request in respect of the subject property, the Board notes that the Minister's criteria follows precisely that set out in s.299 of the Act, in respect of the purpose of s.299 being: "to show how the assessor prepared the assessment of that person's property."

The Board further notes that s.299 (1.1) of the Act, in setting out what is "sufficient information", refers to documents, records and other information in respect of **the assessed person's property**. In this instance, the requested information was not for documents, records and other information in respect of the assessed person's property; but rather, information in respect of (lease rates) of competing properties, which would not "show how the assessor prepared the assessment of (the subject) property."

Further, the Minister's letter, dated July 23, 2012, included the following comment:

"It is the ministry's opinion that the request for the City of Calgary to select or provide the most comparable sales transactions to determine or test an assessment is not related to the relevancy of "sufficient information" under section 299 of the MGA"

The Board notes that if comparable sales transactions that are readily available in the public domain are not considered to be relevant information under s.299 of the Act, then confidential information relating to a competitor's leases must be beyond the scope of information that must be provided by a municipality to an assessed person, or his/her agent.

With respect to *CNRL v. Wood Buffalo (Regional Municipality)* 2012 ABQB 177 and other cases addressed by the Complainant, the Board was not provided with evidence of what specific information was requested in those matters, nor what specific information was provided in response to the requests. The Board was also not provided with evidence of whether the information requested in those matters, related to documents, records and other information in respect of properties other than the subject property, as is the case in this matter.

**Procedural Matter**

During the course of the hearing, both parties requested that the evidence and argument related to the capitalization rate issue presented at an earlier hearing of File 67753 (Tax Roll 201515905), be carried forward and considered by the Board in this matter without further mention.

**Decision:** The Board agrees to the parties' request. The evidence and argument presented at the hearing of File 67753, (Tax Roll 201515905) in respect of the capitalization rate issue, (the only issue before this Board), will be considered by the Board in this matter without the necessity of reiteration.

**Property Description:**

The subject property is a 403,014 sq.ft. (square foot) parcel of land, improved with six freestanding "A" quality retail structures containing a total net rentable area of 113,059 sq.ft. The structures were constructed in 2005 and form part of a neighbourhood shopping centre development known as Millrise Station.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter number 4, and led evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out eleven grounds for the complaint in section 5 of the complaint form with a requested assessment of \$25,530,000; however, at the hearing only the following issues were before the Board:

1. What is the correct capitalization rate applicable to the subject property?
2. What is the correct market rent rate applicable to the subject's office premises?
3. What is an equitable market rent rate for the subject's "pad" restaurant premises?

**Complainant's Requested Value:**

The Complainant's submission reflects an assessment request of \$26,830,000.

**Issue 1:** What is the correct capitalization rate applicable to the subject property?

[1] The Complainant argued that the capitalization rate of 7.25%, applied to the 2012 assessments of Neighbourhood and Community shopping centres is excessively low and not reflective of “typical” market conditions as at the legislated valuation date. The Complainant submits that a typical capitalization rate of 7.75% is evident from seven valid market transactions that have occurred during an appropriate analysis period.

[2] The Complainant provided the following two methods of analysis in support of the requested 7.75% capitalization rate.

Capitalization Rate Method 1	The application of the assessed income as prepared by the City of Calgary Assessment Business Unit.
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Capitalization Rate Method 2	The application of typical market income as prescribed by the “Alberta Assessor’s Association Valuation Guide”, and the “Principles of Assessment 1”, for Assessment Review Board and Municipal Government Board members.
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[3] The Complainant submits that the first method has also been employed by the Respondent for the purpose of deriving capitalization rates, as evident in a previous submission of the Respondent included at page 22 of exhibit C3. However, the Complainant argued that the second methodology as prescribed by the Alberta Assessor’s Association Valuation Guide and set out in the provincial training materials for board members is the most appropriate method to derive market capitalization rates, as it relates the typical NOI (net operating income) specific to each property, to the sale price of that property. The Complainant contends that the second method mirrors the motivations of market participants in contrast to the first method, which simply relates the property’s assessed net operating income in the year of the sale to that property’s sale price.

[4] In support of the methodology applied in Capitalization Rate Method 2, the Complainant provided an excerpt of the Alberta Assessor’s Association Valuation Guide, “Determining Market Rents as of the Valuation Date”, as follows:

**Base Rent**

To determine the current market rent for each tenant, the following guidelines are provided (in order of descending importance):

1. For most tenants, the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of “market” rents are (in order of descending importance):
  - Actual leases signed on or around the valuation date.
  - Actual leases within the first three years of their term as of the valuation date
  - Current rents for similar types of stores in the same shopping centre.
  - Older leases with active overage rent or step-up clauses.
2. As a secondary source of rent information, and as a check on the rents derived from the actual rent rolls, the rental rates can be compared to the rents established for similar tenants in other similar properties.
3. If comparable lease information is not available, it may be necessary to analyze the existing lease and interview the owner and tenant(s) to determine what the current rent on the space should be.

[5] The seven properties analysed by the Complainant transferred within 30 months of the July 1, 2011 legislated valuation date, and include the following:

Property	Address	Sale Date	Sale Price
Pacific Place Mall	999 36 St NE	27-May-11	\$ 44,000,000
Sunridge Sears Centre	3320 Sunridge Way NE	19-Jan-11	\$ 12,600,000
Calgary East Retail Centre	2929 Sunridge Way NE	18-Dec-09	\$ 19,585,500
Braeside Shopping Centre	1919 Southland Drive SW	14-Dec-09	\$ 15,275,000
Cranston Market	356 Cranston Road SE	28-Oct-09	\$ 32,000,000
McKnight Village Mall	5520 Falsbridge Gate NE	01-May-09	\$ 19,270,000
Chinook Station Office Depot	306 Glenmore Trail SW	20-Jan-09	\$ 6,944,450

[6] The Complainant's Capitalization Rate Method 1 analysis, founded upon the assessed net operating income in the year of the sale derived a range of capitalization rates from 6.38% to 8.89%, with an average capitalization rate of 7.69%, and a median capitalization rate (in oral testimony) of 8.25%, as set out below:

#### Capitalization Rate Method 1

Property (Address)	Sale Date	Sale Price	Assessed NOI	Capitalization Rate
Pacific Place Mall (999 36 St NE)	27-May-11	\$ 44,000,000	\$3,078,515	7.00%
Sunridge Sears Centre (3320 Sunridge Way NE)	19-Jan-11	\$ 12,600,000	\$ 825,181	6.55%
Calgary East Retail Centre (2929 Sunridge Way NE)	18-Dec-09	\$ 19,585,500	\$1,740,874	8.89%
Braeside Shopping Centre (1919 Southland Drive SW)	14-Dec-09	\$ 15,275,000	\$1,276,862	8.36%
Cranston Market (356 Cranston Road SE)	28-Oct-09	\$ 32,000,000	\$2,041,265	6.38%
McKnight Village Mall (5520 Falsbridge Gate NE)	01-May-09	\$ 19,270,000	\$1,590,480	8.25%
Chinook Station Office Depot (306 Glenmore Trail SW)	20-Jan-09	\$ 6,944,450	\$ 580,084	8.35%
			<b>Average</b>	<b>7.69%</b>
			<b>Median</b>	<b>8.25%</b>

[7] The Complainant's Capitalization Rate Method 2 analysis, founded upon the property's typical net operating income in the year of the sale as established from each property's rent roll, in accordance with the criteria set out in the Alberta Assessor's Association Valuation Guide and the provincial training materials for board members, and adjusted for leases set to expire derived a range of capitalization rates from 7.34% to 8.65%, with average and median capitalization rates of 7.80%, and 7.71%, respectively, as set out below:

#### Capitalization Rate Method 2

Property (Address)	Sale Date	Sale Price	Calculated NOI	Capitalization Rate
Pacific Place Mall (999 36 St NE)	27-May-11	\$44,000,000	\$3,356,317	7.63%
Sunridge Sears Centre (3320 Sunridge Way NE)	19-Jan-11	\$12,600,000	\$ 932,844	7.40%
Calgary East Retail Centre (2929 Sunridge Way NE)	18-Dec-09	\$19,585,500	\$1,530,441	7.81%
Braeside Shopping Centre (1919 Southland Drive SW)	14-Dec-09	\$15,275,000	\$1,177,449	7.71%
Cranston Market (356 Cranston Road SE)	28-Oct-09	\$32,000,000	\$2,348,706	7.34%
McKnight Village Mall (5520 Falsbridge Gate NE)	01-May-09	\$19,270,000	\$1,546,503	8.03%
Chinook Station Office Depot (306 Glenmore Trail SW)	20-Jan-09	\$ 6,944,450	\$ 600,509	8.65%
			<b>Average</b>	<b>7.80%</b>
			<b>Median</b>	<b>7.71%</b>

[8] The Complainant submits that the range of capitalization rates evident from the two analyses demonstrates the following capitalization rate ranges and variances:

	<u>Range</u>	<u>Variance</u>
Capitalization Rate Method 1:	6.38% to 8.89%	251 basis points
Capitalization Rate Method 2:	7.34% to 8.65%	131 basis points

[9] The Complainant argued that Capitalization Rate Method 2 is the most accurate as the approach mirrors the motivations of market participants, and the range of capitalization rates exhibits a significantly lower variance than exhibited in Capitalization Rate Method 1. The Complainant further argued that a significant variance of 356 basis points will be evident in the Respondent's capitalization rate analysis.

[10] In support of the assessed 7.25% capitalization rate coefficient, the Respondent provided a capitalization rate analysis founded on six properties, the first five of which are common to the Complainant's analyses. The properties transferred within 24 months of the July 1, 2011 legislated valuation date, and are set out below (in corresponding order to the Complainant's evidence for ease of reference):

Property	Address	Sale Date	Sale Price
Pacific Place Mall	999 36 St NE	27-May-11	\$ 44,000,000
Sunridge Sears Centre	3320 Sunridge Way NE	19-Jan-11	\$ 12,600,000
Calgary East Retail Centre	2929 Sunridge Way NE	18-Dec-09	\$ 19,585,500
Braeside Shopping Centre	1919 Southland Drive SW	14-Dec-09	\$ 15,275,000
Cranston Market	356 Cranston Road SE	28-Oct-09	\$ 32,000,000
#400 and #1200	163 Quarry Park Bv SE	06-Apr-10	\$ 40,637,317

[11] The Respondent's capitalization rate analysis, founded on the assessed net operating income in the year of the sale derived a range of capitalization rates from 5.29% to 8.85%, with average and median capitalization rates of 6.71% and 6.77% respectively, as set out below:

Property (Address)	Sale Date	Sale Price	Assessed NOI	Capitalization Rate
Pacific Place Mall (999 36 St NE)	27-May-11	\$44,000,000	\$3,078,516	7.00%
Sunridge Sears Centre (3320 Sunridge Way NE)	19-Jan-11	\$12,600,000	\$ 825,181	6.55%
Calgary East Retail Centre (2929 Sunridge Way NE)	18-Dec-09	\$19,585,500	\$1,732,868	8.85%
Braeside Shopping Centre (1919 Southland Drive SW)	14-Dec-09	\$15,275,000	\$1,084,151	7.10%
Cranston Market (356 Cranston Road SE)	28-Oct-09	\$32,000,000	\$1,691,434	5.29%
#400 & #1200 (163 Quarry Park Bv. SE)	06-Apr-10	\$40,637,317	\$2,224,082	5.47%
			<b>Average</b>	<b>6.71%</b>
			<b>Median</b>	<b>6.77%</b>

[12] The Respondent conceded that the estimated NOI for Cranston Market could not be confirmed as there was no income data provided by the property owner at the time of sale, so "typical" rents were applied in the assessment which may have been underestimated. The Respondent further conceded that the sale of 163 Quarry Park Bv. SE was not a typical shopping centre development, which may have influenced the indicated capitalization rate somewhat. The Respondent submitted that although the analysis indicates a typical capitalization rate of approximately 6.75%, a capitalization rate of 7.25% was selected to compensate for the above factors.

[13] In further support of the assessed 7.25% capitalization rate, the Respondent submitted a time adjusted ASR (assessment to sale ratio) analysis of the Complainant's sales, indicating the 2012 assessment values and ASR's for each of the properties based on capitalization rates of 7.25% (as assessed), and 7.75% (as requested). The assessments as prepared with a 7.25% capitalization rate exhibit ASR's ranging from 0.85 to 1.10, with average and median ASR's of 0.95 and 0.93, respectively. In contrast, the assessments prepared at the requested 7.75% capitalization rate exhibit ASR's ranging from 0.80 to 1.03, with average and median ASR's of 0.89 and 0.87, respectively. The Respondent argued that this evidence demonstrates that the assessed 7.25% capitalization rate results in assessment values closer to the time adjusted sale prices. In support of the time adjustments, the Respondent provided a copy of eight power point slides setting out four time adjustment approaches, and a summary of the Respondent's time adjustment conclusions for the 2010 and 2011 sales.

[14] In response to the Complainant's submission, the Respondent argued that the Complainant's early 2009 sales of McKnight Village Mall and Chinook Station (Office Depot) are outside of the 24 month time frame preferred by the Assessor, and should be excluded from a capitalization rate analysis effective for the July 1, 2011 legislated valuation date. The Respondent argued that in prior submissions related to other retail properties, the Complainant relied upon analysis periods of 18 months or 24 months, and provided excerpts from several of the agent's prior Assessment Review Board submissions in support.

[15] The Respondent further argued that the Complainant's Method 1 capitalization rate in respect of Braeside Shopping Centre is inaccurate, as the Complainant's analysis is founded on the assessed net operating income from the 2010 assessment, when the property was incorrectly classified by the Assessor as a "Strip" shopping centre. The Respondent argued that the assessment (and net operating income) was subsequently revised as a result of the Assessor's reclassification of the development to a "Neighbourhood" shopping centre, and the corresponding parameters should have been relied on in the capitalization rate analysis.

[16] The Respondent also argued that the Complainant has been inconsistent in the determination of net market rents in the Capitalization Rate Method 2 analysis, and has in several instances, relied on only one or two leases to support the market rent conclusion. Moreover, in other instances, the leases were either significantly dated or commencing subsequent to the July 1 valuation date, (*post facto*).

[17] In response to the Respondent's submission, the Complainant argued that the Respondent regularly relies on market data up to 36 months prior to the legislated valuation date. In support of the argument, the Complainant provided copies of municipal documents illustrating the Assessor's reliance on such data, including but not limited to lease data, vacancy data, and industrial sales. Moreover, the Complainant argued that as the 2012 hearings have progressed through the tribunal process over the past five weeks, the Respondent has revised their capitalization rate analysis three times; nevertheless, none of the revised capitalization rate studies correspond to the assessed 7.25% capitalization rate conclusion.

[18] The Complainant further argued the Assessor's typical assessed rents do not consistently reflect the specific space type of each property. In support of the argument, the Complainant provided the example of assessed "Bank" rents that are stratified by the year of construction; ignoring location and property classification factors that affect market rent rates. The Complainant also provided examples of various CRU spaces that are assessed at similar lease rates regardless of their location in a strip, community, or neighbourhood shopping centre.



[19] The Complainant further argued that the Respondent's sale of 163 Quarry Park Bv. SE, exhibiting a 5.47% capitalization rate is atypical and should be excluded from any capitalization rate analysis. The Complainant argued that in addition to the shopping centre, the sale also includes an office building and additional land approved for a hotel development. Further, the vendor in the sale was also the developer, and is the property manager for the entire development.

[20] The Complainant conceded that only one lease was relied on to establish typical market rent for some spaces, however, the Complainant argued that in those instances, there was only one lease available and in contrast, the Respondent has provided no leases to support their assessed typical market rents. The Complainant argued that the only market evidence to scrutinize before the Board is that of the Complainant, as the Respondent has provided none.

[21] In conclusion the Respondent conceded that there was no market evidence to support the assessed rents in the derivation of the assessed capitalization rate, but argued that the question before the Board is: does a 7.75% capitalization rate demonstrate a better market value than the assessed 7.25% capitalization rate?

#### **Decision: Issue 1**

[22] The Board finds that 7.75% is the correct capitalization rate applicable to the subject property.

[23] The Board finds the Complainant's "Capitalization Rate Method 2" analysis is compelling evidence of "typical" market capitalization rates; the analysis is well supported with documentary evidence of the properties' rent rolls and ARFI (Assessment Request For Information) responses. The Board accepts that the Complainant's methodology is consistent with well established appraisal theory and the guidelines set out in the Alberta Assessor's Association Valuation Guide, and mirrors the motivations of participants in the marketplace.

[24] Although the Respondent presented argument in respect of the Complainant's evidence, analysis and methodology, the Respondent failed to provide any market evidence to refute the Complainant's capitalization rate conclusion.

[25] The Board rejects the Respondent's argument that a capitalization rate analysis should be limited to 24 months and finds that the limited analysis period appears arbitrary and inconsistent with other property types in the municipality, as the evidence before the Board indicates that analysis periods for other property types and data often exceed 24 months. Further, with the limited number of valid sales of this property type, and the apparent difficulty in obtaining specific financial data from some of the properties, the Board is persuaded that a longer analysis period is preferable to allow for a greater sample of valid market data.

[26] The Board also rejects the Respondent's argument in respect of the income discrepancy of the Braeside Shopping Centre, as the rebuttal evidence of the Complainant demonstrates that assessed rents are not necessarily differentiated by property classification. In this instance the Board finds the income discrepancy is significant, and the Board accepts that the Complainant's typical market rent approach in Capitalization Rate Method 2 reflects the approach of the market, and eliminates any arbitrary classification issues such as the classification issue with Braeside Shopping Centre.

[27] The Board afforded little weight to the Respondent's capitalization rate analysis, as the +0.50% adjustment and resultant 7.25% capitalization rate conclusion appears to be arbitrarily selected and not based on market evidence. Further, if the Quarry Park sale is atypical, (and the Board agrees that it is), it should be excluded from the analysis rather than making an arbitrary and unsupportable capitalization rate adjustment.

[28] Moreover, there was no market evidence presented to demonstrate that the assessed rents equate to "typical" market rents for each of the properties. On the contrary, the Complainant's rent roll and ARFI evidence clearly demonstrates that the assessed rent rates assigned to several of the spaces are well below what current leases exhibit, (e.g. Cranston Market), resulting in an underestimated net operating income and consequently, inaccurate capitalization rate conclusions.

[29] In respect of the discrepancy between the Respondent's capitalization rate analysis and the Complainant's method 1 analysis, the Board accepts that as a result of stratification and grouping for mass appraisal purposes the assessed rents applied to a group of properties may not reflect the typical rents each individual property in the group is able to achieve, as evident in the Complainant's rebuttal evidence in respect of the assessment of bank properties that are assigned rent rates based solely on year of construction. For this reason, the Board finds again, that the Complainant's method 2 analysis, founded on each property's typical achievable rent, is deemed to provide the most valid indication of market capitalization rates.

[30] The Board did not find the Respondent's assessment to sale ratio analysis to be compelling evidence supportive of the assessed 7.25% capitalization rate, as the Respondent's time adjustment summary table indicated that the various time adjustment methods employed delivered inconsistent results, and there was no market evidence provided in support of the time adjustment conclusion. The Board was also persuaded by the Complainant's rebuttal evidence that demonstrated a decline in the assessed incomes of most of the (2009 sale) properties over the same period the Respondent provided positive time adjustments.

**Issue 2: What is the correct market rent rate applicable to the subject's office premises?**

[31] The Complainant argued that the \$20.00 per sq.ft. market rent rate applied to the subject's office premises is excessive, and not reflective of the typical \$16.00 per sq.ft. market rent rate of retail type office spaces.

[32] In support of the argument, the Complainant provided an analysis of thirty seven southwest Calgary office premise leases titled, "2012 Leasing Analysis = Retail Office Space (SW Leases)". The leases commence between February 2009 and October 2011, and exhibit contract rent rates ranging from \$10.15 to \$25.00 per sq.ft. The Complainant provided two analyses of the lease data setting out the median, mean and weighted mean of the entire population of leases, and the leases than commenced in the "base year" to demonstrate the following statistics:

	37 Leases	Base Year Leases
<b>Median</b>	\$16.00	\$16.34
<b>Mean</b>	\$16.06	\$16.60
<b>Weighted Mean</b>	\$13.68	\$16.17

[33] The Respondent provided a summary of five, southwest Calgary office premise leases commencing between June 2009 and June 2012 exhibiting contract rent rates ranging from \$17.00 to \$27.50 per sq.ft., and a median rate of \$21.00 per sq.ft. In cross examination the Respondent conceded that a \$19.25 per sq.ft. median rate was evident, if the *post facto* 2012 lease is excluded. The Respondent further provided a summary of thirteen lease areas located in three properties, one being the subject property, to demonstrate that the \$20.00 per sq.ft. net rent coefficient was equitably applied.

#### **Decision: Issue 2**

[34] The Board finds that \$16.50 per sq.ft. is the correct market rent rate applicable to the subject's office premises.

[35] The Board was persuaded by the Complainant's analysis that demonstrates median and mean "base year" office lease rates in the range of a \$16.50 per sq.ft. net rent coefficient, and the Board notes that this rent rate is reflective of recent leasing activity in the subject property.

[36] The Board finds that the Respondent failed to provide market evidence in support of the subject's \$20.00 per sq.ft. net rent coefficient, as Respondent's evidence demonstrates that the subject's lease rates do not exceed \$18.00 per sq.ft.

#### **Issue 3: What is an equitable market rent rate for the subject's "pad" restaurant premises?**

[37] The Complainant argued that the \$33.00 per sq.ft. net rent coefficient applied to the subject's "pad" restaurant premises is inequitable in relation to the assessment of similar and competing properties that are assessed with a \$26.00 per sq.ft. net rent coefficient. In support of the argument, the Complainant provided the municipality's assessment summaries of ten "pad" restaurant dining lounges that are assessed with a \$26.00 per sq.ft. net rent coefficient, and one "pad" restaurant dining lounge assessed with a \$17.00 per sq.ft. net rent coefficient. The Complainant argued that the "Bull & Finch", located at the Shoppes of Bridlewood is the most comparable to the subject property as it is of similar construction and located in the same market area as the subject.

[38] In response to the Complainant's equity comparables, the Respondent argued that several of the properties were dissimilar to the subject in respect of quality, and year of construction. In support of the assessed \$33.00 per sq.ft. net rent coefficient, the Respondent provided examples of three "A" quality "pad" restaurant dining lounges assessed with a \$33.00 per sq.ft. net rent coefficient, and the subject's ARFI (Assessment Request For Information) response to demonstrate that the subject is currently occupied under a 10 year lease, at a rate of \$31.00 per sq.ft.

**Decision: Issue 3**

[39] The Board finds that \$31.00 per sq.ft. is an equitable market rent rate for the subject's "pad" restaurant premises.

[40] The Board finds that the equity comparables presented by both parties are inconclusive, and the best evidence of the subject's market value is its current contract rent, which is somewhat supported by the Respondent's equity comparables. The Board was not persuaded by the Complainant's equity evidence, as many of the properties are found to be dissimilar to the subject in respect of quality, year of construction and location, with the exception of the "Bull and Finch" located at the Shoppes of Bridlewood. Although the Board agrees that this property appears to be very similar to the subject, there was no market evidence of that property's contract rent rates to demonstrate market similarity.

The assessment is **REVISED** from: \$29,790,000 to: **\$27,260,000**.

DATED AT THE CITY OF CALGARY THIS

5

DAY OF NOVEMBER, 2012.

  
J. Krysa  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission (162 pages)
2. C2	Complainant's Submission (308 pages)
3. C3	Complainant's Submission (233 pages)
4. C4	Complainant's Submission (374 pages)
5. C5	Complainant's Submission ( 94 pages)
6. C5(a)	Complainant's Submission ( 52 pages)
7. R1	Respondent's Submission (174 pages)
8. Complainant	CARB 0568-0574/2012-P
9. Complainant	CARB 0776, 0778, 0779, 0785-0787/2012-P
10. Respondent	CARB 1154, 1159/2012-P
11. R3	Respondent's Submission (2 pages)

*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
CARB	Retail	Neighbourhood	Income Approach	Capitalization Rate