

**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:

3934381 Canada Inc. (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: 175035914

LOCATION ADDRESS: 151 Crowfoot Crescent NW

HEARING NUMBER: 64256

ASSESSMENT: 80,840,000.00

This complaint was heard on 27 day of June, 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 Crowfoot Crossing, a multi-building retail and office development located in the Crowfoot Power Centre in NW Calgary. The complex comprises 257,542 s.f. of gross area, including the Odeon Theatres, Shanks, Petland, Sportsmart, Marks Work Warehouse, and a number of smaller CRU's. The complex was developed in 1996 through to 1999. The site area is 24.36 acres.

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 rental rates applied to the CRU spaces are in error".

3. The lease rate applied to the Jr. Big Box Stores is in error. In addition, the stratification for Jr. Big Box Stores should be 14,001 s.f. to 20,000 s.f., and a second category for 20,001 to 50,000 s.f.

4. The theatre space rental rate is in error.

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>Position</u>	<u>Complainant</u>
CRU 1,001 -2,500 s.f.	22,004	\$32.00	no issue	\$32.00
CRU 2,501-6,000 s.f.	2,618	\$28.00	no issue	\$28.00
CRU 6,001-14,000 s.f.	91,558	\$26.00	requested reduction	\$21.00
Jr. Big Box 14,001-50,000	61,723	\$17.00	requested reduction	\$15.00
Pad, 6,001 – 14,000 s.f.	10,317	\$26.00	requested reduction	\$21.00
Restaurant/Dining Lge.	18,333	\$32.00	no issue	\$32.00
Restaurant / Fast Food	3,918	\$32.00	no issue	\$32.00
Theatre Space	51,151	\$22.00	requested reduction	\$17.00

Complainant's Requested Value: \$64,880,000.00

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 transactions 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 Centres ranged from about 6.50 to 7.00 per cent.

2) Rental Rates

The Complainant submitted the actual rent roll for the subject development. In the 6,001 to 14,000 s.f. category, the CRU rents are consistent at \$26.00, \$27.00 and \$28.00 per s.f. The Complainant argues that the leases are dated, and current rents should be lower. A review of the lease dates produced two "beginning" dates of 2009, and 2010, indicating that these are current leases. The Complainant also produced 13 leases in this size category. The average and median rentable area is 8,438 and 8,313 s.f. respectively. The average and median rent is \$20.55 and \$19.75 per s.f. All of these properties are in South East Calgary.

In the 14,001 to 50,000 s.f. bracket, there are two leases, at \$25.00 and \$14.00 per s.f. The \$14.00 per s.f. rate is the product of a lease contract dated 2002, while the \$25.00 rent is from a 2007 contract. Rent on the theatre space is \$15.90 per s.f.

The Complainant also submitted three summarized rent rolls in Crowfoot. In Crowfoot Square, nine CRU spaces exhibited an average rent per s.f. of \$28.50. A summary of 33 CRU space rentals in Crowfoot Village, having a total of 57,924 s.f., reflected an average rent of \$33.04 per s.f. Similarly, 27 CRU units in Crowfoot Corner reflect an average per s.f. rent of \$34.64 per s.f.

For Jr. Box stores between 14,001 and 50,000 s.f., 20 lease examples were submitted. The

average rent appears at \$15.16, and the median is \$14.75 per s.f. Of the sampling, two are in Crowfoot. Only one other property is in NW Calgary. Of the total sampling, seven leases are more recent than 2007.

For Jr. Box Stores between 20,000 and 50,000 s.f., the Complainant submitted 55 examples. The average and median are \$15.26 and \$15.00 per s.f. respectively. Of the 55, 40 have commencement dates prior to 2008. For the 15 with commencement dates after 2008, the median rent appears at \$17.00 per s.f.

Finally, for the theatre space, the Complainant introduced two lease examples. One, the Sunridge Spectrum, is a stand alone building currently leased at \$20.66 per s.f., with a step up provision to \$21.65 in January, 2015. The second, at Canyon Meadows Centre, reflects a rent of \$17.10 per s.f. According to the evidence, the Canyon Meadows theatre is a second run theatre that is not comparable to the subject.

The Respondent submitted 29 leasing comparables between 14,001 and 50,000 s.f. All of the comparables have lease start dates between January, 2008, and June 2010. The mean and median rent is \$18.26 and \$17.15 per s.f.

In the 6,001 to 14,000 s.f. category, an additional 29 comparables reflect a median of \$27.00 per s.f. for the ten comparables located in Crowfoot., and \$29.05 per s.f. for the other locations. In Signal Hill, the Respondent included six comparables that reflect a median of \$30.00 per s.f.

The Respondent produced five First Run Major theatre comparables. The mean and median rent reflected is \$22.12 and \$22.50 per s.f.

Board's Decision

With respect to the issue of 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..

For CRU rental rate in the 6,001 to 14,000 size range, the actual rents being achieved by the subject property, and as submitted by the Complainant, are the same as the assessed rate. These rent levels are also supported by the 29 comparables of the Respondent, ten of which are in the same Power Centre as the subject. The Respondent's comparables are considered to be the most convincing.

The Respondent's \$17.00 per s.f. rate for the Jr. Big Box stores is not only confirmed by the Respondent's evidence, but also by the 15 most recent of the Complainant's comparables.

Based on the evidence submitted, the actual rents being achieved in the subject's CRU space is equal to market rents, which are equal to the assessed rent levels. The Board finds no reason to change or amend these levels.

Finally, the five first run major theatre comparables submitted by the Respondent provide

adequate support for the assessed rent level.

This Board is not persuaded to alter the assessment, or any of the components of the assessment, based on the evidence submitted.

The assessment is confirmed.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF August, 2011.



Jerry Zezulka
Presiding Officer

**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><i>Subject</i></u>	<u><i>Type</i></u>	<u><i>Issue</i></u>	<u><i>Detail</i></u>	<u><i>Issue</i></u>
CARB	2, Power Centre Theater	Stand alone	Income approach	Capitalization rate, net market rent, lease rates