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:

Safeway Holdings (Alberta) Ltd., (as represented by MNP LLP), COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

L. Wood, PRESIDING OFFICER
R. Deschaine, MEMBER
K. Farn, 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 2012 Assessment Roll as follows:

ROLL NUMBER:

097002208

LOCATION ADDRESS:

3716 61 AV SE

HEARING NUMBER:

66535

ASSESSMENT:

\$3,840,000

This complaint was heard on the 21st day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

• Mr. M. Uhryn

Agent, MNP LLP

Appeared on behalf of the Respondent:

Mr. A. Mohtadi

Assessor, City of Calgary

Mr. R. Fegan

Assessor, City of Calgary

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

[1] There were no procedural or jurisdictional matters raised by the parties during the course of the hearing.

Property Description:

- [2] The subject property is a retail strip shopping centre located in Foothills Industrial. It is comprised of two buildings, 14,737 sq. ft. and 7,430 sq. ft., built in 1974 and assessed with a C+ quality rating. The land parcel is 2.45 acres, and the land use designation is Commercial Corridor 3. The subject property is adjacent to railway tracks.
- [3] The subject property was assessed based on the Income Approach to value. It includes the following areas and assessed rates:

Sub Component	Area (sq. ft.)	Market Net Rental Rate
Auto Mechanical Repair	2,100	\$14.00
CRU 1,001 - 2,500 sq. ft.	7,430	\$12.00
CRU 1,001 – 2,500 sq. ft.	6,309	\$14.00
CRU 6,001 - 14,000 sq. ft.	6,328	\$12.00
Gas Bar	1	\$45,000.00

Issue:

[4] The subject property should be assessed based on the Direct Sales Comparison Approach.

Complainant's Requested Value:

[5] The Complainant requested a revised assessment of \$2,780,000 for the subject property.

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

[6] The Complainant submitted the assessed value of the subject property is too high, particularly the two buildings on site, not the gas bar. He submitted the subject property should be valued based on the Direct Sales Comparison Approach, and provided two sales comparables of retail strip shopping centres in support of his request as set out, in part, below (Exhibit C1 page 31).

Address	Sale Date	Sale Price	SP/SF	Building Area	YOC	Quality	Neighbourhood	Land Use
6222 36 ST SE	13/11/2009	\$2,750,000	\$133	20,675	1977/1985	C-	Foothills	CC-3
3411 17 AV SE	19/04/2011	\$1,600,000	\$ 69	23,296	1960	C-	Southview	CC-1

Average Median \$101 \$101

- [7] The Complainant requested the subject property be assessed based on the average and median of these two sales comparables at \$101 psf. The assessment for the gas bar based on the Income Approach to value should remain unchanged at \$550,900. This would result in a revised assessment for the subject property of \$2,780,000 (Exhibit C1 page 13).
- [8] The Respondent submitted the subject property was assessed based on the Income Approach to value using typical assessed rental rates for the various CRU space and Auto Mechanical Repair space. The Respondent submitted several lease and equity comparables for the various CRU space and Auto Mechanical Repair space to support the current assessed rates applied to the subject property, which are set out below.
- [9] The Respondent submitted six lease comparables of CRU space of C- quality that ranged between 1,180-2,500 sq. ft. The spaces were leased in September 2009- January 2011 for 1-5 year terms. The lease rates are \$8.50-\$20.20 psf; an average of \$14.23 psf, a median of \$14.00 psf. Based on these lease rates, the Respondent derived an assessed rental rate of \$12.00 psf for CRU space 1,001-2,500 sq. ft. (Exhibit R1 page 19). The Respondent submitted 11 equity comparables of that space category (and quality) to illustrate that the assessed rental rate of \$12.00 psf was applied in a uniform manner (Exhibit R1 page 20).
- [10] The Respondent submitted eight lease comparables of CRU space of C+ quality that ranged between 1,080-2,456 sq. ft. The spaces were leased in February 2008-4 August 2011 for 5-6 year terms. The lease rates ranged between 14.00-16.00 psf; an average and median of 15.00 psf. Based on these lease rates, the Respondent derived an assessed rental rate of 14.00 psf for CRU space 1,001-2,500 sq. ft. (Exhibit R1 page 21). The Respondent submitted 13 equity comparables of that space category (and quality) to illustrate that the assessed rental rate of 14.00 psf was applied in a uniform manner (Exhibit R1 page 22).
- [11] The Respondent submitted three lease comparables of CRU space of C+ quality that ranged between 6,328 10,400 sq. ft. The spaces were leased in July 2009 December 2010 for 5 year terms. The lease rates ranged between \$10.50 \$13.80 psf; an average of \$12.10 psf, a median of \$12.00 psf. Based on these lease rates, the Respondent derived an assessed rental rate of \$12.00 psf for CRU space of 6,001 14,000 sq. ft. (Exhibit R1 page 23). The Respondent submitted four equity comparables of that space category (and quality) to illustrate that the assessed rental rate of \$12.00 psf rate was applied in a uniform manner (Exhibit R1

page 24).

- [12] The Respondent submitted forty lease comparables of Auto Mechanical Repair space of 750 15,360 sq. ft. (Exhibit R1 pages 25 & 26). The leases had commenced in January 2009 June 2011 for 1 10 year terms. The lease rates ranged from \$1.25 \$24.25 psf, a median of \$14.25 psf. Based on these lease rates, the Respondent derived an assessed rental rate of \$14.00 psf for Auto Mechanical Repair space. The Respondent submitted 56 equity comparables of that space type to illustrate that the assessed rental rate of \$14.00 psf rate was applied in a uniform manner (Exhibit R1 pages 27 & 28).
- [13] In rebuttal, the Complainant argued that the Respondent's lease comparables were in different locations than the subject property (Exhibit C2 pages 2, 4-7).
- [14] On the face of it, the two sales comparables provided by the Complainant established a range of values which is so broad that it renders the median meaningless. The Board finds the Complainant failed to address how his sales comparables are similar to the subject property. The Board noted that the Complainant was not forthcoming in advising the Board of the property details of the sales comparable located at 3411 17 AV SE. It has a bowling alley in the basement which could have (negatively) affected the sale price. The Board also noted that the Complainant had questioned the location of the various lease comparables utilized by the Respondent. However, the Complainant did not suggest what the "correct" retail rates should be for the subject property and there was no market lease analysis provided by the Complainant.
- [15] The Board noted that both parties referred to the previous year's CARB decision 1754/2011-P for this property; however, that decision dealt specifically with the assessment of the subject property based on its land value only, which was not an issue before this Board.

Board's Decision:

[16] The decision of the Board is to confirm the 2012 assessment of \$3,840,000 for the subject property.

DATED AT THE CITY OF GALGARY THIS 14th DAY OF November 2012.

Lana J. Wood Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant's Evidence
2. C2	Complainant's Rebuttal
3. R1	Respondent's Evidence

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	Strip Plaza	Sales Approach; Income Approach	Land & Improvement Comparables