

**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:

***Edron Holdings Ltd. c/o Certus Developments Inc.
(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:	201072253
LOCATION ADDRESS:	15425 BANNISTER RD SE
HEARING NUMBER:	65875
ASSESSMENT:	\$6,940,000

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 – 31st Avenue NE, Calgary, Alberta, Boardroom 11.

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 Midnapore. It is comprised of three buildings, for a total assessable building area of 22,908 sq. ft., and is situated on 117,653 sq. ft. of land. The buildings were constructed in 1991 and were assessed as A2 quality. There is a (fourth) new building under construction on the same site and it has an assessable building area of 9,469 sq. ft. It was not subject to this assessment under complaint as the construction had commenced in 2011. The land use designation is Direct Control District.

[3] The subject property was assessed based on the Income Approach to value. The issue before the Board pertains to the assessed rental rates applied to two different space types. The remaining income parameters used in the valuation are not in contention.

Issues:

[4] The issues were identified as follows:

- (a) The market net rental rate for the CRU space (1,001 – 2,500 sq ft.) should be reduced from \$25.00 psf to \$21.00 psf based on market.
- (b) The market net rental rate applied to the PAD Restaurant Fast Food space (2,524 sq. ft.) should be reduced from \$33.00 psf to \$30.00 psf based on market or \$26.00 psf based on equity.

Complainant's Requested Value:

[5] The Complainant requested two alternative values for the subject property: \$6,155,000 or \$6,230,000.

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

- (a) The market net rental rate for the CRU space (1,001 – 2,500 sq ft.) should be reduced from \$25.00 psf to \$21.00 psf based on market.

[6] The Complainant submitted the subject property has 14,267 sq. ft. of space which falls within the category of CRU space 1,001 – 2,500 sq. ft. He submitted the current assessed lease rate of \$25.00 psf should be reduced to \$21.00 psf based upon recent leasing activity in the market. The Complainant presented eight lease comparables of CRU space, 1,006 – 2,500 sq. ft., in support of his request. The leases had commenced in July 2009 – January 2011 with 4 – 10 year terms for \$15.00 - \$25.00 psf (Exhibit C1 page 28). The Complainant submitted the average of those lease rates is \$21.70 psf and the weighted average is \$20.78 psf. The Complainant noted five of those leases are from the subject property.

[7] The Respondent submitted twelve lease comparables of CRU space, 1,017 – 2,092 sq. ft., to support the assessed rate of \$25.00 psf (Exhibit R1 page 16). The leases had commenced in April 2009 – April 2011 with 4 – 10 year terms for \$20.00 - \$35.00 psf. The Respondent submitted the average lease rate (including four from the subject property) is \$28.25 psf and the median is \$28.00 psf.

[8] The Respondent argued that the Complainant's two lease rates of \$15.00 and \$16.00 psf should be removed from his analysis because the property located at 14 3716 61 AV SE is not similar to the subject property. It is located in Foothills Industrial, and abuts a large industrial complex next to the railway tracks. It was built in 1974 and is assessed as C+ quality (Exhibit R1 page 22). Moreover the \$16.00 psf lease rate is a sub-lease.

[9] The Respondent also argued that the Complainant failed to include four additional leases within the subject property. One lease, in particular, is for 2,092 sq. ft. It had commenced in March 2011 with a 5 year term for \$30.00 psf (Exhibit R1 page 16). The Respondent argued if the subject property's leases for this CRU space were considered, the median is \$24.00 psf.

[10] The Board finds there was insufficient evidence to change the current assessed lease rate of \$25.00 psf for this CRU space. The Board finds there is sufficient and recent leasing activity within the subject property to provide an indication of typical market lease rates for this type of space as of July 1, 2011. The Board noted the Respondent argued that the Complainant failed to include four additional lease rates from the subject property; however, the Board finds that two of those lease rates were used in common by both parties in their leasing analysis (Exhibit C1 page 28; Exhibit R1 page 16). The Board finds the current leases within the subject property support the assessed rate of \$25.00 psf.

- (b) The market net rental rate applied to the PAD Restaurant Fast Food space (2,524 sq. ft.) should be reduced from \$33.00 psf to \$30.00 psf based on market or to \$26.00 psf based on equity.

[11] The Complainant submitted two alternative requests for the Board's consideration in regards to the freestanding, PAD Restaurant Fast Food space of 2,524 sq. ft. (Tim Horton's). The Complainant submitted two (fast food) comparables from 10440 Macleod TR SE,

(commonly known as Century Park Plaza): one is a Tim Horton's (1,591 sq. ft.) and the second is a Taco Time (2,046 sq. ft.). The leases for these two comparables had commenced in 2010 with 10 year terms for \$30.00 psf. The Complainant argued that these two comparables are similar to the subject property based on location: they all have direct exposure to Macleod TR SE. The Complainant requested that the subject property's assessed lease rate be reduced to \$30.00 psf.

[12] Alternatively, the Complainant noted that these two comparables have been assessed at \$26.00 psf (Exhibit C1 pages 29 & 30). He argued the remaining income parameters used to assess Century Park Plaza are lower than the subject property. Based on equity, the Complainant requested the assessed rental rate of \$26.00 psf be applied to the subject property.

[13] The Respondent submitted four market lease rates of similar PAD Restaurant Fast Food space (Quality A) for areas of 2,710 – 4,382 sq. ft. The leases had commenced in April 2010 – October 2011 with 2 - 5 year terms for \$31.00 - \$46.32 psf. (Exhibit R1 page 18). This leasing analysis results in an average lease rate of \$36.33 psf and a median of \$34.00 psf. The Respondent also submitted three equity comparables located throughout the City. The areas are 2,230 – 3,471 sq. ft. and were assessed at \$33.00 psf (Exhibit R1 page 19).

[14] The Respondent submitted that there is a discrepancy in the (Taco Time) lease rate reported by the Complainant: it should be \$31.00 psf as opposed to \$30.00 psf. He also noted that Century Park Plaza was built in 1987 and is assessed as a B quality.

[15] The Board noted that the Respondent was unable to confirm the names or types of restaurants used in his leasing analysis, years of construction or if any have a drive - through similar to the subject property, therefore, the Board placed less weight on the Respondent's leasing analysis. However the onus is on the Complainant to prove the assessment is incorrect. The Board finds there was insufficient evidence to show that PAD Restaurant spaces in Century Park Plaza would be better market value comparables for the subject property. On the face of it, the quality ratings, which were not disputed by the Complainant, show a difference between the two properties: Century Park Plaza has an inferior quality rating (B) compared to the subject property (A2). The Board was not convinced based on the evidence presented that these two properties are similar to accept either the \$26.00 or \$30.00 psf rate as requested by the Complainant.

Board's Decision:

[16] The decision of the Board is to confirm the 2012 assessment for the subject property at \$6,940,000.

DATED AT THE CITY OF CALGARY THIS 2nd 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. 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	Income Approach	Net Market Rent/Lease Rates