

**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:**

***RIOKIM Holdings (Alberta) Inc., (as represented by Altus Group Limited), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***L. Wood, PRESIDING OFFICER***

***R. Roy, MEMBER***

***T. Usselman, 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 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>037163201</b>
<b>LOCATION ADDRESS:</b>	<b>3501 CHARLESWOOD DR NW</b>
<b>HEARING NUMBER:</b>	<b>63801</b>
<b>ASSESSMENT:</b>	<b>\$2,620,000</b>

This complaint was heard on 9 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Mr. B. Neeson* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Ms. B. Thompson* *Assessor, City of Calgary*

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

The parties requested that their evidence and argument regarding to the issues of capitalization rate and chronic vacancy in files #63788 (the property located at 4122 Brentwood Road NW) be cross referenced to this complaint as the evidence and argument is similar. The Board agreed with the parties' request.

The subject property is part of an improved 335,819 sq. ft. community shopping centre known as the Brentwood Village Mall, located in the community of Brentwood. The three properties associated with the Brentwood Village Mall are under complaint:

- 3802 Brentwood Road NW (file #64124);
- 3750 Brentwood Road NW (file #63790); and
- 3501 Charleswood Road NW (file #63801).

The three properties will be heard by the same panel and separate decisions will be issued.

**Property Description:**

The property located at 3501 Charleswood Dr NW is comprised of two freestanding buildings. The first building was constructed in 1987 and is comprised of 2,885 sq. ft. (leased by Harvey's Restaurant). The second was constructed in 1990 and is comprised of 4,317 sq. ft. (leased by TD Canada Trust). The two buildings are situated on 1.02 acres of land. The land use designation is Commercial Regional 3.

**Issues:**

1. The capitalization rate should be changed from 7.25% to 7.75%.
2. The vacancy rate should be changed from 7.5% to 15% to reflect its chronic vacancy.
3. The assessed rate for the Bank should be reduced from \$29.00 psf to \$24.00 psf.

**Complainant's Requested Value:** \$1,960,000

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

1. The capitalization rate should be changed from 7.25% to 7.75%.

The Complainant began his presentation by referring to several excerpts from court cases and Real Estate Appraisal texts in support of developing a correct capitalization rate methodology (cross - reference to file #63788, Exhibit C1, pages 31 - 33). He also noted in 2008 and 2009 the City of Calgary used actual net operating income adjusted for typical market conditions (cross - reference to file #63788, Exhibit C1 pages 37 - 38).

The Complainant submitted a 2011 Shopping Centre Capitalization Rate Analysis in support of a change in capitalization rate from 7.25% to 7.75% for the subject property's assessment (cross - reference to file #63788, Exhibit C1 pages 40 - 72). The Complainant's analysis was based on 5 shopping centre comparables that sold in 2009. The shopping centres ranged between 29,722 sq. ft. – 83,603 sq. ft which had sold for \$6,944,450 - \$32,000,000. The Complainant led the Board through the adjustments that he had made to the actual income to these sales, if required, to reflect typical market rents (cross - reference to file #63788, Exhibit C1 pages 40 - 77; Exhibit C3). He applied the same valuation parameters as the Respondent in terms of Major Space Vacancy (1%) CRU Space Vacancy (2%) and Office Space Vacancy (2%), Vacant Space Shortfall (\$8.50 psf) and Non-Recoverable Allowance (1%) to the sales comparables and established a capitalization rate of 7.35% - 8.66% for these sales comparables. The weighted mean was 7.71%. This formed the basis of the Complainant's request of 7.75% for a capitalization rate.

The Respondent submitted that the capitalization rate of 7.25% was based on a 30 - month time frame of sales that occurred of neighbourhood and community shopping centres (cross - reference to file #63788, Exhibit R1 page 178). She submitted 8 sales of neighbourhood shopping centres, 29,722 sq. ft. - 195,969 sq. ft., which had sold for \$6,944,450 - \$40,637,317 in 2008 - 2010 (cross - reference to file #63788, Exhibit R1 page 179). The Respondent set out the capitalization rate applied to the shopping centres based on their actual income parameters that ranged between 5.82% - 8.79% (median of 6.95% and an average of 7.02%). The Respondent also set out the capitalization rate that was derived using typical income parameters in the year of sale which ranged between 5.01% - 8.38% (median 7.04% and average 7.10%). It is based on the typical income parameters that the Respondent derived a capitalization rate of 7.25%. She argued that less weight should be applied to the Complainant's methodology as he is mixing actual and typical income parameters to derive his capitalization rate which is not consistent. As well, it was based on the leased fee estate, as opposed to the fee simple estate.

The Board finds the Complainant did not present sufficient evidence to show that a change in the capitalization rate from 7.25% is warranted. During the hearing, the Complainant conceded that based on his capitalization rate analysis, the median is 7.5% which would be the appropriate rate to apply as opposed to the 7.75% as requested. The Board is reluctant to change a capitalization rate by a quarter of a percent (0.25%) without an abundance of sales in the market place to support such a change. Moreover, the Board notes the adjustment is so minimal that it would only result in a change to the subject property's overall assessment by 3%.

2. The vacancy rate should be changed from 7.5% to 15% to reflect its chronic vacancy.

The Complainant submitted the vacancy rate should be increased from 7.5% to 15% to reflect

the subject property's chronic vacancy. The Complainant submitted the rent rolls for the Brentwood Village Mall (Exhibit C1 pages 118 - 125). Based on the total square footage of the three properties of 312,372 sq. ft., the rent rolls show that 36,223 sq. ft. was vacant in 2010 (11.5%) and 66,690 sq. ft. was vacant in 2009 (21%). The Complainant also submitted the CARB decision 1424-2010-P in support of a higher vacancy allowance to recognize site specific vacancy (Exhibit C1 pages 126 - 130).

The Respondent argued that the property does not have a history of chronic vacancy. She submitted that Brentwood Village Mall is under transition, based on a management decision, to redevelop the site. She submitted documents pertaining to the Brentwood Station Area Redevelopment Plan, including the Report to the Calgary Planning Commission dated June 23, 2011 (Exhibit R1 pages 195 - 304). The site will encompass retail and high rise condominiums. The Respondent submitted the Assessment Request for Information ("ARFI") for the Brentwood Village Mall for 2008 - 2010 (Exhibit R1 pages 34 - 124). The Respondent drew the Board's attention to the ARFIs for the subject property (Exhibit R1 pages 34 - 45). The ARFI reflects that the combined 7,202 sq. ft. of total rentable area, there was 0% vacant in 2008, 2009 and 2010.

The Board acknowledges that this property is part of the Brentwood Village Mall, which is under transition to be redeveloped; however, the subject property has not experienced any vacancy in the last three years as reflected on the ARFIs. As such, the Board finds that the Complainant provided insufficient evidence in support of chronic vacancy for this specific property.

3. The assessed rate for the Bank should be reduced from \$29.00 psf to \$24.00 psf.

The Complainant submitted the assessed bank rate for the subject property should be reduced from \$29.00 psf to \$24.00 psf (Exhibit C1 page 62). This would make it equitable with the two banks in the Brentwood Village Mall, specifically the Bank of Montreal and the Alberta Treasury Branch (cross reference to CARB 1753-2011-P, related file #64124).

The Respondent submitted the assessed rates for banks (CRU and PAD types) located throughout the City are based on year of construction. The Respondent submitted a **2011 Bank Lease Study** in support of the assessed rates (cross reference to file #64124, Exhibit R1 pages 148 - 150). The Board has set out a simplistic version of that study for illustrative purposes, as follows:

Year of Construction	Areas	Lease Starts	Lease Rates (\$/psf)	Assessed Rate (\$/psf)
2008 and newer	3,385 – 7,329	Jan. 2008 – Jan. 2010	\$26.00 - \$58.00 psf	\$43.00 psf
2005 – 2007	4,952 – 6,097	Jun. 2007 – Apr. 2008	\$26.00 - \$47.00 psf	\$32.00 psf
1990 – 2004	3,998 – 10,694	May 2007 – Sept. 2010	\$26.00 - \$45.00 psf	\$29.00 psf
1980 – 1989	3,260 – 6,728	Apr. 2007 – Oct. 2009	\$16.00 - \$33.50 psf	\$26.00 psf
Up to 1979	2,500 – 10,567	Mar. 2007 – Jun. 2010	\$17.00 - \$33.50 psf	\$24.00 psf

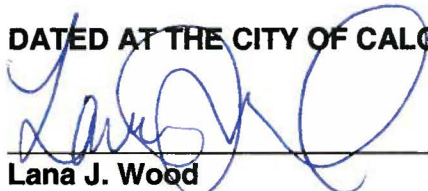
The Respondent indicated the year of construction was a factor that the Board took into

consideration in the past. She also noted the subject building is leased at \$37.00 psf. The Board finds there is no demarcation in the assessed bank rates based on year of construction. In reviewing the assessed rates, there is no apparent relationship between the age of the building and the rents achievable. The Board also notes the Respondent failed to explain the break points and how they relate to year of construction. As such, the Board placed little weight on the Respondent's 2011 Bank Lease Study. As such, the Board finds that the bank rate for the TD Canada Trust should be reduced from \$29.00 psf to \$24.00 psf in order to maintain equity amongst the three banks within the Brentwood Village Mall.

**Board's Decision:**

The decision of the Board is to revise the 2011 assessment for the subject property from \$2,620,000 to \$2,212,000 (truncated).

DATED AT THE CITY OF CALGARY THIS 15 DAY OF NOVEMBER 2011.

  
\_\_\_\_\_  
Lana J. Wood  
Presiding Officer

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

<b>EXHIBIT NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission <b>file #63801</b> ( <b>Note:</b> The Complainant's evidence submission pertains to 3750 Brentwood Road NW; 3802 Brentwood Road NW; and 3501 Charleswood Drive NW)
2. C2	Complainant's Rebuttal <b>file #63778</b> for property located at 4122 Brentwood Road NW
3. C3	Complainant's Capitalization Rate Analysis & Argument <b>file #63778</b>
4. C1	Complainant's Submission <b>file #63778</b>
5. R1	Respondent's Submission <b>file #63801</b>
6. R1	Respondent's Submission <b>file #63778</b>

*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 Mall	Income Approach	Capitalization Rate; Net Market Rent/Lease Rates; Expenses; Equity Comparables