

**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:

1388524 Alberta Ltd., (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:

ROLL NUMBER:	201609781
LOCATION ADDRESS:	3802 BRENTWOOD ROAD NW
HEARING NUMBER:	64124
ASSESSMENT:	\$13,670,000

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) and #63801 (the property located at 3501 Charleswood 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 3802 Brentwood Road NW is comprised of a 50,355 sq. ft. building, situated on 3.50 acres of land. The building was constructed in 1974 (47,843 sq. ft) with an additional improvement of 2,512 sq. ft. that was built in 1990. The building is comprised of the following areas:

Sub Component	Area	Market Net Rental Rate
CRU 0 - 1,000 sq. ft.	704 sq. ft.	\$24.00 psf
CRU 1,001 - 2,500 sq. ft.	16,617 sq. ft.	\$22.00 psf
CRU 2,501 - 6,000 sq. ft.	21,989 sq. ft.	\$20.00 psf
PAD 2,501 - 6,000 sq. ft.	2,512 sq. ft.	\$20.00 psf
PAD RESTAURANT DINING LOUNGE	8,533 sq. ft.	\$28.00 psf
TOTAL	50,355 sq. ft.	

The building was assessed with a B quality. The land use designation is Direct Control and Special Purpose - School, Park and Community Reserve.

The market net rental rates are not in dispute before the Board. It is the vacancy rate of 7.5% and capitalization rate of 7.25% which are under complaint.

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.

Complainant's Requested Value: \$11,380,000

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 and it does not presently suffer 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 160 - 258). 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 62 - 123). The Respondent drew the Board's attention to the ARFIs for the subject property (Exhibit R1 pages 102 - 120). The ARFI reflects that the 47,843 sq. ft. of the total rentable area, there was no vacancy in 2008 (0%); 1,479 sq. ft. was vacant in 2009 (3%); and 17,138 was vacant in 2010 (35%). The remaining 2,512 sq. ft. is 100% occupied by Kentucky Fried Chicken (Exhibit R1 pages 121 - 123).

The Board finds that the subject property is under transition to be redeveloped and therefore any vacancy in 2010 would be reasonably attributed to the impending redevelopment. The Complainant failed to establish a consistent pattern of chronic vacancy for the subject property for the past several years. In fact, the ARFIs reflect little to no vacancy for the subject property in 2008 and 2009. The Board also noted the Complainant did not explain how he derived a factor of 15% for chronic vacancy.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$13,670,000.

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:**

EXHIBIT NO.	ITEM
1. C1	Complainant's Submission file #63801 (Note: 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 file #63778 for property located at 4122 Brentwood Road NW
3. C3	Complainant's Capitalization Rate Analysis & Argument file #63778
4. C1	Complainant's Submission file #63778
5. R1	Respondent's Submission file #64124
6. R1	Respondent's Submission file #63778

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; & Expenses