

**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:

**Ruth Singer Investments Ltd. c/o Martello Property Services  
(as represented by Altus Group Ltd.), COMPLAINANT**

and

**The City Of Calgary, RESPONDENT**

before:

**J. Krysa, PRESIDING OFFICER**

**R. Deschaine, MEMBER**

**I. Fraser, MEMBER**

This is a complaint to the Calgary Assessment Review Board in respect of the annual property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>064051006</b>
<b>LOCATION ADDRESS:</b>	<b>4623 Bow Trail SW</b>
<b>HEARING NUMBER:</b>	<b>67726</b>
<b>ASSESSMENT:</b>	<b>\$4,430,000</b>

The complaint was heard on September 24, 2012, in Boardroom 9 at the office of the Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- R. Farkas

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

There were no procedural or jurisdictional matters raised by either party during the course of the hearing.

**Property Description:**

The subject property is a 47,040 sq.ft. (square foot) parcel of land, improved with a 18,584 sq.ft. "B" quality strip shopping centre, that was constructed in 1959 and is known as Westgate Plaza.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint forms:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter # 4, and led evidence and argument only in relation to matter #3, an assessment amount. The Complainant set out nine grounds for the complaint in section 5 of the complaint form with a requested assessment of \$3,740,000; however, at the hearing only the following issue was before the Board:

- What are the correct market rent rates applicable to the subject's various Commercial Retail Unit (CRU) spaces?

**Complainant's Requested Value:**

The Complainant requested an assessment of \$4,000,000.

**Complainant's Position**

[1] The Complainant argued that the \$17.00 per sq.ft. market rent coefficient applied to 10,075 sq.ft. of the subject's large CRU areas (6,001 – 14,000 sq.ft.) is excessive in relation to typical lease rates of similar and competing recreational spaces, and the subject's current contract rent rates.

[2] In support of the argument the Complainant provided a summary of seven leases in respect of lease areas ranging from 7,197 to 12,290 sq.ft., with commencement dates ranging from December 2009 to November 2011. The leases exhibit contract rents ranging from \$11.00 to \$18.00 per sq.ft. with median and mean rent rates of \$15.00 and \$14.88 per sq.ft., respectively. One of the seven leases is a November 2011 lease located in the subject property, at a contract rent rate of \$14.85 per sq.ft.

[3] The Complainant argued that the \$15.00 per sq.ft. lease within the nearby Richmond Square Shopping Centre, and the subject's \$14.85 per sq.ft. lease are the most valid examples of typical market rents for the subject property. The Complainant submitted that the leases within Westbrook Mall and the four Macleod Trail properties are in superior locations in relation to the subject property; and would represent an upper limit of value for the subject property.

[4] The Complainant further argued that the market rent coefficients assigned to the subject's CRU spaces in the 0 – 1,000 sq.ft. range (\$22.00 per sq.ft.), and 1,001 – 2,500 sq.ft. (\$21.00 per sq.ft.) are inequitable in relation to the market rent coefficients of a similar and competing property.

[5] In support of the argument, the Complainant provided the municipality's assessment explanation summary for the Wildwood Shopping Centre, a 1958, "B-" quality strip shopping centre located at 3819 Bow Trail SW, with market rent coefficients \$1.00 per sq.ft. less than those applied to the similar sized CRU spaces within the subject property. The Complainant argued that there is no apparent justification for this property's "B-" quality rating, as the subject property and this comparable share similar location along the same street, in the same economic zone, and the properties were constructed one year apart, in 1958 and 1959. The Complainant further submitted that although the Respondent will argue that the Complainant's equity comparable is of a different quality, the Respondent's lease evidence ignores the quality ratings of the properties.

### **Respondent's Position**

[6] In support of the \$17.00 market rent coefficient assigned to the subject's large CRU areas (6,001 – 14,000 sq.ft.), the Respondent provided details of a June 2010 lease of a 6,259 sq.ft. CRU located at 3708 17 Ave SW, at a contract rent rate of \$18.00 per sq.ft.

[7] In support of the \$22.00 market rent coefficient assigned to the subject's small CRU areas (0 – 1,000 sq.ft.), the Respondent provided a summary of four strip shopping centre leases in respect of CRU areas ranging from 575 to 1,000 sq.ft. with commencement dates ranging from February 2009 to March 2010. The leases exhibit contract rents ranging from \$19.00 to \$24.00 per sq.ft.

[8] In support of the \$21.00 market rent coefficient assigned to the subject's medium CRU areas (1,001 – 2,500 sq.ft.), the Respondent provided a summary of four strip shopping centre leases in respect of CRU areas ranging from 1,428 to 2,356 sq.ft. with commencement dates ranging from August 2009 to March 2011. The leases exhibit contract rents ranging from \$19.00 to \$25.00 per sq.ft.

[9] The Respondent argued that the Complainant's lease rate evidence is not relevant as the properties, neighbourhood and community shopping centres, are dissimilar to the subject property, a strip shopping centre. In support of the argument, the Respondent provided CARB 2760/2011-P in respect of the subject's 2011 assessment complaint, and submitted that the Board in that matter found the Complainant's leases were also located in properties that were dissimilar to the subject property.

[10] Further, the Respondent argued that the Complainant's comparable property located at 3819 Bow Valley Trail SW is dissimilar to the subject as it is a "B-" quality, whereas the subject is a "B" quality structure.

[11] In cross examination the Respondent indicated that he was unsure of the quality rating of his lease comparables, and conceded that he had no evidence to demonstrate that the properties were of similar quality ratings to the subject property.

#### **Board's Decision in Respect of the Issue**

[12] The Board finds that there was insufficient market evidence provided by the Complainant to disturb the subject's assessment.

[13] The Board did not find the Complainant's lease rate evidence compelling as the properties were of different classifications than the subject property. This Board concurs with the comments of the Board in CARB 2760/2011-P in respect of comparability and notes that it may have been helpful if the properties' rent rolls or other income information (e.g. Potential Gross Incomes) were provided to enable the Board to determine comparability amongst the properties, notwithstanding their different classifications.

[14] With respect to the Complainant's market rent equity argument in relation to 3819 Bow Valley Trail SW, in the Board's view, in the absence of "market" evidence to support a lower market rent rate, the Complainant is compelled to establish that the equity comparable is truly comparable. Although the Board agrees that some of the property's characteristics are similar to those of the subject property, and the Respondent provided no justification to differentiate a "B-" property from a "B", there was no conclusive evidence (e.g. income information) provided to demonstrate that the two properties would share identical market rent rates.

[15] Consequently, the Board is persuaded by the Respondent's market evidence of eight strip shopping centre CRU leases that support the subject's \$22.00 and \$21.00 per sq.ft. market rent coefficients.

The assessment is **CONFIRMED** at: **\$4,430,000.**

**DATED AT THE CITY OF CALGARY THIS**

19

**DAY OF NOVEMBER, 2012.**

  
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**J. Krysa**  
**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission

*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 Shopping Centre	Income Approach	Market Rent