

**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:**

***Investors Group Trust Co. (as represented by AEC international Inc.), COMPLAINANT***

**and**

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

**before:**

***D. Trueman, PRESIDING OFFICER***

***Y Nesry, MEMBER***

***D. Morice, 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: 141001305**

**LOCATION ADDRESS: 755 Lake Bonavista Dr. SE.**

**HEARING NUMBER: 63436**

**ASSESSMENT: \$24,280,000**

This complaint was heard on 16th day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *Brock Ryan, Jamie Wingrewich*

Appeared on behalf of the Respondent:

- *Jarret Young*

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

The parties agreed that there was no disagreement of a procedural or jurisdictional nature.

**Property Description:**

The subject property is classified by the City as a "Neighbourhood Shopping Center", which consists of 80,317 ft.<sup>2</sup> of retail area with an office component of 22,983 ft.<sup>2</sup> for a total of 103,300 ft.<sup>2</sup>. The retail component was built in 1972 and the office addition in 1977. These improvements are located on a land base of 8.73 acres and located in the southeast quadrant of the City of Calgary in the Lake Bonavista Estates neighbourhood.

**Issues:**

The complaint form outlines four general areas of concern however, at hearing the complainant identified the issues that would need to be decided as:

- 1/ the correct market rental rate for the grocery store tenant (Safeway)
- 2/ the correct market rental rate for the office building component
- 3/ the correct market capitalization rate
- 4/ the relationship of the input factors and the resultant value conclusion, from the income approach, as between the subject property's assessment and the assessment of other similar shopping centers.

**Complainant's Requested Value:** \$20,600,000

**Complainant's position**

The complainant testified that the subject property suffered from its location which was at the interior of the subdivision or general area that it served and thus did not benefit from the high traffic flow of the arterial streets on which similar properties were located. He said that the subject property quality rating had been reduced from an A- to a B+, with respect to the retail area this year however, the subject assessment had increased. Also, he said that the subject site was constrained with a "shared use agreement" which benefitted a neighbouring medical

building, a neighboring freestanding restaurant and a homeowners association. Finally he said that the improvements were older and nearing the end of their economic life. With respect to the specific issues the complainant argued that:

Issue #1 Safeway have recently signed a renewal for the subject shopping Center grocery store at \$4.00 per Sq. foot. While this lease was signed in October 2010, some three months subsequent to the valuation date, the complainant testified that according to the terms of the renewal option, negotiations had taken place through the period 6 to 12 months in advance of the signing. The complainant further provided evidence of a lease to Zellers at \$4.00 per Sq. foot and on page 19 of C-1 a chart depicting leases to four other grocery store locations. These lease rates ranged from \$3.71 a square foot to \$7.08 square foot and provided a weighted mean average of \$5.22 per Sq. foot.

Issue #2 At page 14 of documents C1 the complainant provided information with respect to a variety of office leases that had been signed at the subject property through September 2008 to September 2010. He said that if one were to focus on the period November 2009 to May 2010, which was most appropriate for evaluation purposes, it could be seen that a market rent of \$15.75 was appropriate for the subject property. He further said that because the office was classified as C+ quality by the City, industry reporting services were suggesting average asking lease rates for such property were in the range of \$10.00 per Sq. foot..

Issue #3 The complainant presented a "Capitalization Rate Sales Analysis" at page 21 of his R1 document. This information provided sales of 15 shopping centers, 13 of which had financial information available from which a capitalization rate could be determined. The average capitalization rate is 7.94%. There were two sales which were missing financial information among the "Neighbourhood Shopping Centers", similar to the subject. The complainant testified that one of the remaining sales, 356 Cranston Rd. SE., should have indicated a higher capitalization rate given a higher net operating income report immediately after the sale. He said that the average of these two neighbourhood shopping center indicators should be now 8.1%. The remainder of the sales were either "community", "power" or "strip" centers and all, except one, provided generally noticeably higher capitalization rate indications.

Issue #4 The complainant presented a chart entitled "Equity Analysis" on page 24 of his document C1 and this contained information with respect to five shopping centers which he said were similar with respect to age, size, quality, sub property use and location. The main thrust of his argument is that two of the comparable properties assessments had decreased in 2011 while there was no reporting on two of the properties one of the properties had increased and as well the subject had increased..He felt that he had proven the subjects reduced rents, higher capitalization rate and reduced quality rating and this could only lead to the conclusion that the subject property is in equitably assessed.

### **Respondent's position**

The respondent opened his remarks by presenting photographs of the subject property which depicted a well-maintained property featuring recent upgrades. The respondent countered the complainant position by saying with respect to:

Issue #1 at page 64 of document R1 the respondent provided 8 leases which had commenced through the period 1981 to 2008 and demonstrating lease rates ranging from \$6.71 a square foot to \$12.50.

Issue #2 The respondent pointed to the rent roll for the subject property and opined that there were office tenants paying significantly more than the \$18.00 per Sq. foot which he had used for assessment purposes. Not the least of which was Public Works Canada whose lease commenced in 2008 for \$28.00 per Sq. foot, for an area purported to be 125 ft.<sup>2</sup> on the rent roll, but upon further examination was 125 square meters or 1345 ft.<sup>2</sup>. He further pointed to lease

rate information on page 67 of exhibit R1 which depicted lease rates in the office components of mixed-use retail properties from leases commenced in the 2007 to 2010 time frame. This average lease rate was \$17.60 per Sq. per annum.

Issue #3 On pages 69 and 70 the respondent presented capitalization rate information which suggested that various shopping center classifications attracted rates ranging from 6.5% to 7.5%. Given that the subject was a "neighborhood shopping center" the applicable rate should be 7.25%. In support of this he presented a chart at page 71 demonstrating sales of similarly classified properties and an average capitalization rate of 7.1%. In addition the respondent provided published capitalization rates by three recognized industry participants who reported that capitalization rates for neighbourhood shopping centers would be in the range of 6.75% to 7.25%.

Issue #4 The respondent advised the panel that there were several areas of concern with respect to the complaint. He said that a real property valuation, based upon the income approach to value, could not be concluded when considering various components of the approach, i.e. capital vacancy rate, rent rate, etc., independently of each other. He said that with respect to the complained capitalization rates it was common for reporting agencies to base their reporting on actual data and that this could not support a complaint against a value which had been concluded from typical market data. He said that the complainant's interpretation of his right to a lower assessment based upon the Bentall and Bramalea decisions was flawed and to this end he supplied a City legal analysis of these decisions with a chart for clarity on page 17 of exhibit R1.

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

Issue #1 The Board finds that a grocery store lease rate is better supported at the level of \$4.00 per Sq. foot than the City's use of \$9.00 per Sq. foot. The essential ingredient here was the recent lease of the subject premises; which the complainant had supported with other grocery store and national retailers leases, in similar size properties, commencing through a time frame that would better assimilate with the valuation date than the assessor's market lease rate data. Giving consideration also to its interior location the Board therefore decides to lower the grocery store lease rate to \$4.00 per Sq. foot per year.

Issue #2 The respondent presented a larger sampling of office market leases than the complainant. Given that the respondent's market lease data was from similar mixed-use properties, with one lease being in the subject, the resulting lease rate average, from the 20 outside properties, at \$17.60 Cents per Sq. foot was better evidence than the complainant's market lease rate data of \$15.75 Cents per Sq. foot.

Issue #3 The panel noted that much of the complainant capitalization rate information was from property classified differently than the subject, i.e. "power center" or "strip center". There was relatively much more information provided by the respondent and the Board prefers this larger sampling.

Issue #4 Reviewing the complainant's idea that the assessor is obliged to calculate an assessment which is based on market value and which is not higher than the assessments of similar property the Board finds that the question of an inequitable assessment must first clearly delineate comparability, with respect to both form and function, between the subject and the comparables. Then secondly, it must be clearly demonstrated that there is not an overlap of market (assessed) value range, determined for the subject and the range of equity values determined for the comparables. No reasonable ranges of values for any of the input data or value conclusions of either the subject market (assessed) value or the assessed values for the so-called comparable properties was put forward, thus rendering it impossible for the Board to decide that an inequitable situation existed.

**Board's Decision:**

Based upon a reduced rental rate for the grocery store (Safeway) the assessment is reduced to \$22,790,000

DATED AT THE CITY OF CALGARY THIS 28 DAY OF SEPTEMBER, 2011.

  
D. Trueman  
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. C3	Bentall decision
4. C4	Mountain View decision
5. C5	Loughheed Thomasson Inc decision
6. R1	Respondent Disclosure
7. R2	Bentall decision

*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 MGB Administrative Use Only*

Decision No. 1919-2011-P		Roll No. 141001305		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Retail	Neighbourhood Mall	Income Approach	Net Market Rent

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CARB	Retail	Neighbourhood mall	Income approach	Capitalization rate