

**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:

4209141 Canada Inc., (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. McEwen, PRESIDING OFFICER

D. Cochrane, MEMBER

D. Pollard, 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: 200293173

LOCATION ADDRESS: 5251 COUNTRY HILLS BLVD NW

HEARING NUMBER: 64515

ASSESSMENT: \$21,050,000

This complaint was heard on the 24TH day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, AB, Boardroom 11.

Appeared on behalf of the Complainant:

- A. Iazard
- B. Neeson

Appeared on behalf of the Respondent:

- R. Fegan

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

The parties asked that the evidence submissions referenced as C1, C2, C3, C4, C5 and R1 as well as all capitalization rate arguments from Hearing 63743 be carried forward to the current hearing. The parties agreed that the capitalization rate decision from Hearing 63743 would apply to the current hearing.

Property Description:

The subject property, a Community/Neighbourhood Shopping Centre known as the Real Canadian Superstore, is located in the Edgemont district of NW Calgary. The 150,981 square foot development, built in 1994, is anchored by the Real Canadian Superstore and is rated A- for assessment purposes.

Issues:

Is the subject property assessed higher than market value and is the assessment, therefore, inequitable to comparable properties? Specifically,

1. Should the subject capitalization rate be adjusted from 7.25% to 7.75%?
2. Should the Big Box and CRU rate for CRU space 6,001-14,000 be reduced to \$8 and \$17 per square foot respectively?

Complainant's Requested Value:

\$15,790,000

Board's Findings and Reasons in Respect of Each Matter or Issue:

1. Should the subject capitalization rate be adjusted from 7.25% to 7.75%?

The Board finds the requested capitalization rate of 7.75% a fair indicator of market value for the subject property.

The Complainant met onus in this matter by clearly demonstrating the inconsistencies within the city's Community/Neighbourhood Shopping Centre Capitalization Rate Study and further, by providing the Board a credible cap rate alternative.

The Board's reasons are as follows:

- The Board finds that two sales used by the Respondent to derive the Community/Neighbourhood Shopping Centre capitalization rate are questionable and should not have been included in the study.
 - The sale of the Deer Valley Marketplace located at 1221 CANYON MEADOWS DR SE included additional land that was immediately developed by the new owner. The Respondent did not adjust the sale price of Deer Valley for the value of the additional land prior to applying the typical Net Operating Income (NOI) to the property sale to derive the cap rate of the transaction. By overstating the value of the income producing component of the sale, the Respondent effectively understated the cap rate used in the cap rate analysis.
 - The sale of the Market at Quarry Park is not accepted by the Board as the typical rent rate applied to this property to calculate the property's Potential Gross Income (PGI) produces a resulting cap rate (5.01%) that is such an obvious outlier that the Board excludes it from the cap rate study. The issue in this case is the Respondents calculation of the PGI of the property which understates the annual income by over \$700,000. This gap is supported by the Quarry Park rent roll that indicates monthly income of ~\$244,000 or ~\$2,900,000 annualized compared to the city's PGI conclusion of ~\$2,200,000. In this case, the typical rent rates applied by the city to the Quarry Park space did not account for significant influences (age, design, location, tenant mix etc) that impact actual rents. The resulting PGI discrepancy, and ultimately the calculated cap rate, so skew the overall cap rate study conclusion that the Board cannot accept the Quarry Park property as part of the cap rate analysis. The Respondent's time adjusted Assessment to Sales Ratio (ASR) for this property (0.68) further supports the Board's finding that the Quarry Park sale falls outside an acceptable range of values and should, therefore, be disqualified.
 - The sale of West Springs Village is accepted by the Board although there is some evidence that the sale was non-arms length. The Complainant, however, has not provided enough evidence for the Board to find the sale price atypical of market value.
 - The Board finds additional issues with the Respondent's cap rate study. The Sale of Braeside Shopping Centre, for example, was applied a vacancy rate of 9% whereas the typical vacancy rate for SW properties is 2%. The 9% rate, apparently, was an error; a carry-over from the time Braeside was assessed as a strip mall.
- The Board finds the Complainant's arguments regarding typical rent rates and the subsequent derivation of the alternative typical rent rates, through the rigorous application of accepted appraisal principles, compelling. Ultimately, however, the Board finds the Complainant's arguments and calculations more valuable in meeting onus than in the derivation of a revised cap rate.
- The Board finds the Respondent's typical rent rates unsupported by any evidence.
- The Board accepts the Complainant's argument that the Respondent's third party reports are opinions only, unsupported by evidence and analysis.
- The Board accepts the Complainant's argument that previous Board decisions regarding the Community/Neighbourhood Shopping Centre capitalization rate involve different evidence and argument and should be weighed accordingly.

- The Board finds the Respondent's Assessment to Sales Ratio (ASR) analysis to be of little value as the analysis includes the Deer Valley and Quarry Park properties that the Board does not accept as part of the cap rate study.

Ultimately, the Board finds the best support for the Complainant's request to be the Respondent's own cap rate study. Excluding the sales of Quarry Park and Deer Valley, as noted above, and using the typical values applied by the city, the median cap rate of the six remaining properties is 7.91%. As a test of the requested cap rate, the recalculation of the 2011 assessments for these six properties, using a 7.75% cap rate, yields a median ASR of 1.02.

In summary, the Board finds the Complainant meets onus. The Board further finds that the Respondent is unable to defend two properties used in the Community/Neighbourhood Shopping Centre Capitalization Rate Study and unable to support the derivation of the typical rates used in the study. The Board finds the Complainant's cap rate request of 7.75% well supported by the six valid sales within the Respondent's cap rate study and further supported by the ASR analysis of the six sales using the 7.75% cap rate.

2. Should the Big Box and CRU rate for CRU space 6,001-14,000 be reduced to \$8 and \$17 per square foot respectively?

Regarding the Big Box rate, the Board finds the very best comparable to be the Royal Oak Walmart located in close proximity to the subject property. The properties are close in size and are assessed at the same rate of \$10 per square foot. Accordingly, the Board finds the \$10 rate fair and equitable.

The Board finds the Complainant's table, *Community CRU 6000-14000 sq ft* (C1, page 135), inconclusive. While the table suggests that NW locations command higher rates than other quadrants of the city (refer to SCHEDULE A), the most recent lease in the NW (a subject lease) indicates a rate of \$17 per square foot. While the Board accepts this lease as valid, it finds a single lease, with few details to support it, insufficient evidence to overturn the rent rate applied to the subject property.

SCHEDULE A

Quadrant	Rate (average)
NW	\$25.00
NE	\$15.35
SE	\$11.31
SW	\$15.54

In summary, the Board finds the higher assessed CRU rates in the subject property both fair and reasonable based upon the differing characteristics of the Complainant's comparable properties.

Board's Decision:

The subject assessment is reduced to \$19,690,000.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF September 2011.

McEwen

C. McEwen
Presiding Officer

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

NO.	ITEM
1. # 63743 C1	Complainant Disclosure
2. # 63743 R1	Respondent Disclosure
3. # 63743 C2	Complainant Disclosure
4. # 63743 C3	Complainant Disclosure
5. # 63743 C4	Complainant Disclosure
6. # 63743 C5	Complainant Disclosure
7. # 63744 C1	Complainant Disclosure
8. # 63744 R1	Respondent Disclosure

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.*