

**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:**

**Loblaw Properties West Inc. (as represented by Altus Group), COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**before:**

**T. B. Hudson, PRESIDING OFFICER**

**B. Jerchel, MEMBER**

**J. Kerrison, 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 2012 Assessment Roll as follows:

**ROLL NUMBER: 200533982**

**LOCATION ADDRESS: 3633 Westwinds DR NE**

**FILE NUMBER: 68596**

**ASSESSMENT: \$24,340,000**

This complaint was heard on the 10th day of October, 2012 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:

- *D. Hamilton*

Appeared on behalf of the Respondent:

- *D. Zhao*
- *S. Turner*

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

[1] The Complainant advised that they would not pursue the matter of a dispute over compliance by the Respondent with the Act sections 299 and 300, notwithstanding the considerable argument and evidence included in the disclosure of both Parties on most of the complaint files before this Board.

[2] The Parties agreed that the matters of the correct Rent rate, and Capitalization (Cap) rate to be applied in the assessment calculation for Big Box retail stores 80,001 square feet (sf.) or larger, free standing and/or located in power centres, were common to most of the complaint files before this Board.

[3] Therefore, in order to eliminate the need to repeat the hearing of the same evidence and argument for all the affected properties, the Parties requested, and this Board agreed, to hear the evidence and argument on the correct Cap rate and Rent rate in the context of hearing File # 66404, and to cross-reference the information to the other hearing files as appropriate.

**Property Description:**

[4] The subject property is a 20.85 parcel of land improved with a free standing 186,822 square foot (sf.) Real Canadian Superstore, including non-retail mezzanine, recreation space, retail space, office space, and gas bar. The property is located at 3633 Westwinds DR NE, in the Westwinds community. The current assessment, based on the capitalized income approach to value, is \$24,340,000.

**Issues:**

[5] The Complainant identified the assessment amount and class as the matters of concern on the Complaint Form.

[6] Specific issue as follows:

- Is the correct Rent Rate for the Big Box space \$10.00 per square foot (psf.); or \$8.00 psf. as requested?

**Complainant's Requested Value:** \$20,270,000

**Board's Finding in Respect of the Issue (as per Hearing File # 66404)**

**Rent Rate**

**The Board finds the correct Rent rate is \$10 psf. for free standing Big Box Retail Stores 80,001sf. and larger.**

[7] The Complainant submitted a chart listing the lease rates for eight Big Box Retail anchor stores 80,001 sf. or larger as comparables to the subject property. The list included four Wal-Mart stores, two Target stores, one Rona, and one Canadian Tire. Three of the eight comparable stores were in power centre locations.

[8] Based on "face" or contract rent, the eight leases produced a median rate of \$7.74 psf., a mean rate of \$9.12 psf., and weighted mean rate of \$8.95 psf. Four of the leases incorporated a "construction allowance" which the Complainant argued should be deducted to arrive at "net" rent, which reduces the median rate to \$7.61 psf., the mean rate to \$7.84 psf., and the weighted mean rate to \$7.71 psf. This evidence supports the requested Rent rate of \$8.00 psf.

[9] The Respondent submitted a chart listing the lease rates of five of the same eight comparables submitted by the Complainant. Based on contract rent, the five leases produced a median rent of \$10.00 psf. and a mean of \$10.80 psf., which supports the assessed Rent rate of \$10.00 psf.

[10] The Respondent argued that three of the four Wal-Mart leases included on the Complainant list should be excluded as comparables, because of their location in enclosed shopping centres. The Respondent explained that Big Box Retail stores in enclosed shopping centres, downtown or Beltline locations are subject to different assessment parameters, and are therefore not comparable to the subject.

[11] The Respondent also argued that the "net" rent rate produced by deducting "construction" allowances is not appropriate because the net rental value only represents the leasehold estate interest in the property, rather than the full fee simple estate interest required by the Act and regulations.

[12] In addition, the Respondent submitted a chart of some forty-two 2012 equity comparables, where the \$10.00 psf. Rent rate had been applied in the assessment calculation.

**Board's Decision:** The assessment is confirmed at \$24,340,000.

DATED AT THE CITY OF CALGARY THIS 8<sup>th</sup> DAY OF November 2012.



T. B. Hudson  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Cap Rate Analysis
3. C3, (a), (b), and (c)	Complainant Disclosure Appendix
4. 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.*

**For MGB Administrative Use Only**

<i>Decision No. 2005/2012-P</i>			<i>Roll No 200533982</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Big Box Free Standing	Assessment Amount/Class	Rent rate.