

**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:

Lowe's Companies Canada, ULC., (*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: 201492212

LOCATION ADDRESS: 13417 52 ST SE

FILE NUMBER: 67774

ASSESSMENT: \$17,100,000

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, and 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 12.95 acre parcel of land improved with a 127,542 square foot (sf.) Lowe's Home Improvement Store. The property is located at 13417 52 ST SE, in the McKenzie Towne Centre. The current assessment, based on the capitalized income approach to value, is \$17,100,000.

Issues:

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

[6] Specific issues are as follows:

- Is the correct Cap Rate 7.25%; or 7.75 % as requested?
- Is the correct Rent Rate \$10.00 per square foot (psf.); or \$8.00 psf. as requested?

Complainant's Requested Value: \$12,770,000

Board's Finding in Respect of Each Matter or Issue (as per Hearing File # 66404):

Cap Rate

The Board finds the assessed Cap rate of 7.25% to be correct.

[7] The Complainant submitted two methods of sales analysis leading to the requested Cap rate of 7.75%.

[8] The first method applied the "assessed income" at the time of sale, divided by the sale price; and the second applied the "typical market income" at the time of sale, divided by the sale price. The Complainant clarified that the 7.75% Cap rate request was predicated on Method 1; Method 2 was only a test for the reliability of the results of the Method 1 analysis..

[9] The Complainant used two sales transactions within the Crowfoot Power Centre for both methods of analysis, including the portfolio sale of 20, 60, and 140 Crowfoot Crescent NW for \$45,000,000 in July of 2009, and the sale of 800 Crowfoot DR NW for \$7,150,000 in February of 2010.

[10] Under Method 1, the analysis produced a Cap rate of 7.33% for the first sale and 7.97% for the second sale; for a median and average of 7.65%. Method 2 produced a Cap rate of 7.91% for the first sale and 9.24 % for the second sale; for a median and average of 8.57%.

[11] The Respondent submitted an analysis which included the same two sales and assessed income applied by the Complainant in Method 1, but included a third transaction at 95 Crowfoot CR NW for \$2,638,000 in December of 2010. This sale produced a Cap rate of 6.35%. When this sale is included in the analysis a median Cap rate of 7.33% and average of 7.22% is the result.

[12] The Respondent submitted CARB1882/2012-P, a Board decision signed on October 4, 2012. The Respondent pointed out that the decision to confirm the assessed Cap rate of 7.25% for the Heritage Towne Centre was based on the same evidence as that which is before this Board.

[13] Although not bound by previous decisions, this Board concurs with the findings and reasons in CARB1882/2012-P, given the nature of the evidence.

Rent Rate

The Board finds the correct Rent rate is \$10 psf. for Big Box Retail Stores 80,001sf. and larger, in Power Centre locations.

[14] 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.

[15] 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.

[16] 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.

[17] 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.

[18] 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.

[19] 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 \$17,100,000.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF November 2012.



T. B. Hudson
Presiding Officer

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

NO.	ITEM
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.*

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<i>Decision No. 2008/2012-P</i>			<i>Roll No 201492212</i>	
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Big Box Power Centre Anchors	Assessment Amount/Class	Cap rate, Rent rate.