

**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(4), Revised Statutes of Alberta 2000 (the Act).

**between:**

***Costco Wholesale Canada Ltd, COMPLAINANT,  
as represented by Altus Group***

**and**

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

**before:**

***T. Helgeson, PRESIDING OFFICER  
S. Rourke , MEMBER  
P. Charuk, 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: 200768661**

**LOCATION ADDRESS: 11588 Sarcee Trail N.W.**

**HEARING NUMBER: 63980**

**ASSESSMENT: \$20,500,000**

This complaint was heard on Thursday, the 1<sup>st</sup> of September, 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:

*B. Neeson*

Appeared on behalf of the Respondent:

*S. Turner*

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

At the commencement of the hearing, the Complainant and the Respondent requested that all the evidence and argument regarding capitalization rates from hearing 61076 be carried forward to the present hearing. The Board agreed with the request on the basis that the aforementioned evidence and argument would be considered as brought forward without further mention.

**Property Description:**

The subject property, a Costco store, is located in a power shopping centre at 11588 Sarcee Trail NW. The subject property is part of *Beacon Hill Centre*. The site area of the subject property is 14.83 acres, and the rentable area is 148,586 sq. ft. The subject property was constructed in 2006.

**Issues:**

Has the subject property been wrongly assessed as a result of the application of a capitalization rate ("cap rate") of 7.25%?

**Complainant's Requested Value:** \$19,180,000, as revised at the hearing.

**Summary of the Complainant's Position**

The only issue in this case is the cap rate. The evidence and argument provided in the complaint on File #61076 apply here. The assessment of the subject property is in excess of its market value. The capitalization rate of 7.25 percent should be increased to 7.75 percent. There is no evidence to support the requested CRU ("commercial rental unit") rental rate of \$8.00 per sq. ft. All evidence supports the assessed rate of \$10.00 per sq. ft.

The Board should place no weight on the sales of 16061 Macleod Trail SE and 95 Crowfoot Crescent NW. This is because 16061 Macleod Trail SE sold on August 1<sup>st</sup>, 2008, well before the valuation date of July 31<sup>st</sup>, 2010, and the sale of 95 Crowfoot Crescent NW is *ex post facto* the valuation date (the sale occurred on December 13<sup>th</sup>, 2010), and the Respondent has refused to

provide information with respect to its time adjustments. Sales of properties comparable to the subject property, i.e., 800 Crowfoot Crescent NW, 20 & 60 Crowfoot Crescent NW, and 140 Crowfoot Crescent NW, have been analyzed. These sales occurred on February 12<sup>th</sup>, 2010, August 1<sup>st</sup>, 2009, and July 30<sup>th</sup>, 2009, respectively. Based on derived rents, the result of the analysis indicates that the cap rate of 7.25% used in the assessment of the subject property is in error, and that the correct capitalization rate is 7.75%.

### **Summary of the Respondent's Position**

The Complainant has used actual rents to support its requested cap rate of 7.75 percent. To apply that cap rate to assessments based on typical rents simply does not work. The cap rate must be derived from typical rental rates, not actual. The Complainant has mixed and matched. As stated by the Supreme Court of British Columbia in the West Coast Transmission case: *Thus it makes no sense to develop a capitalization rate based on one set of assumptions about long-term vacancy rates, long term rents, and long term expenses, and then apply that rate to the income of the subject property that is not derived in the same way.*

In a previous complaint with respect to the assessment of a strip shopping centre at 3708 17<sup>th</sup> Avenue SW, the Complainant's representatives argued for a cap rate of 7.5 percent. Now, in the present case, they're arguing for a cap rate of 7.75 percent for a retail power centre. Why would a power centre have a higher risk factor than a strip centre? Our power centre cap rate was derived from an analysis of typical rents and sales of four power centres, those at 16061 Macleod Trail SE, 20, 60, and 140 Crowfoot Crescent NW, 800 Crowfoot Crescent NW and 95 Crowfoot Crescent NW. Even were 95 Crowfoot Crescent NW, which has an *ex post facto* sale date, left out of the analysis, the analysis supports the an assessment-to-sales ratio ("ASR") of 7.25 percent.

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

Section 2 of AR 220/04, the *Matters Relating to Assessment and Taxation Regulation*, requires that an assessment of property must be prepared using mass appraisal, must be an estimate of the value of the fee simple estate in the property, and must reflect typical market conditions for properties similar to that property.

The Complainant's evidence included a cap rate analysis based on sales of three power centres, i.e., at 800 Crowfoot Crescent NW, 20 & 60 Crowfoot Crescent NW, and 140 Crowfoot Crescent NW. These same sales were used in the Respondent's cap rate analysis, but in the Complainant's analysis, actual, rather than typical, rents were used. These actual rents were adjusted by the application of "typical" vacancies and other factors to arrive at a stabilized net operating income ("NOI") for each property.

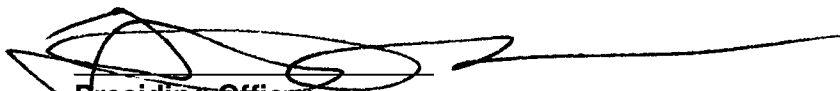
Actual, or "contract" rent, is generally not relevant to the fee simple interest. It is the fee simple interest, i.e., the totality of all interests in the property, that must be assessed. A valuation based on actual rents reflects only the owner's interest, hence ignores the interests of tenants. Deriving a cap rate from actual rents sidesteps the requirements s.2 of AR 220/04. To then apply that cap rate to the income of property based on typical rents, as the Complainant purports to do in this case, runs counter to the ruling in the West Coast Transmission case. It's either all one, or all the other, you can't mix and match:

*I stated above that the concepts used, in developing capitalization rates for application to the subject, should be used consistently. Thus it makes no sense to develop a capitalization rate on one set of assumptions about long-term vacancy rates, long-term rents, and long-term expenses, and then apply that rate to the income of the subject property that is not derived in the same way.*

The Board agrees with the logic of the learned Justice. Without consistency, the system fails. In the result, the Board finds that the Respondent's approach, with all inputs being typical, exhibits consistency, and results in an estimation of value that accords with the requirements of AR 220/04. With the *ex post facto* sale of 95 Crowfoot Crescent left out of the analysis, the cap rate average is 7.21 percent, and the median, 7.33 percent, results which support the Respondent's cap rate. Furthermore, third party evidence from reliable sources indicate cap rates for power centres of 6.50 percent to 7.00 percent.

**The Board's Decision:** In the result, the Board found the Respondent's argument and evidence persuasive. Accordingly, the assessment is confirmed at \$20,500,000.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF NOVEMBER 2011.

  
Presiding Officer

### Exhibits

C-1, Altus Group Evidence Submission.

R-1, Assessment Brief.

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<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Power Centre	Income Approach	Cap Rate

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*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.*