

**COMPOSITE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, (MGA) Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

Ikea Properties Limited (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. J. Griffin, PRESIDING OFFICER

R. Deschaine, MEMBER

R. Roy, MEMBER

This is a complaint to the *Composite Assessment Review Board* (CARB) 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: 200383404

LOCATION ADDRESS: 8000 – 11 Street SE

HEARING NUMBER: 63448

ASSESSMENT: \$41,880,000.

This complaint was heard on 7th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- D. Hamilton

Appeared on behalf of the Respondent:

- K. Gardiner

Preliminary Matter(s):

Two Preliminary/Procedural Matters were brought forward for the CARB to consider.

1) The Assessor brought forward a matter relating to the Rebuttal Evidence of the Complainant and the fact that the documents were not received by the City within the appropriate timeframe as defined by *Alberta Regulation 310/2009, Matters Relating to Assessment Complaints Regulation* (MRAC) Section 8. The Complainant acknowledged that the documents in question were in fact disclosed late.

The CARB, under Section 9(2) of MRAC, will not hear the Rebuttal evidence of the Complainant.

2) As a matter of expedience both parties requested that all evidence, questions and responses related to the capitalization rate issue be carried forward from Hearing #64235 (CARB 2224-2011-P) which was heard by this same panel of the CARB, with these same parties, on October 5th, 2011.

The CARB agrees with the parties on this matter and all of the appropriate evidence and argument will be carried forward and become applicable to this Hearing.

Property Description:

According to the Assessment Summary Report (Exhibit C-1 pg. 11) the subject property is described as being a retail shopping centre – power with a quality rating of A2. The subject property, the IKEA retail store, is, at 312,723 Sq. Ft., possibly the largest single retail store in the city. The property was constructed in 2004 and the underlying site is 22.21 acres in size.

The property has been assessed through application of the Income Approach with the following inputs:

Big Box	100,000> Sq. Ft.	\$10/Sq. Ft.
Vacancy Rate		1%
Operating Costs		\$ 9/Sq. Ft.
Non Recoverable Allowance		1% of Effective Net Income
Capitalization Rate		7.25%

Issues:

While there are a number of interrelated issues attached to the Assessment Review Board Complaint form, the Complainant indicated at the Hearing that the issues to be considered by the CARB are reduced to:

1. The assessed rental rate of \$10/Sq. Ft. is not equitable and should be lowered to \$8/Sq. Ft.
2. The assessed capitalization rate of 7.25% is too low and should be increased to 7.75%.

It should be noted that originally there was to be an issue dealing with tenant improvements; however, this issue was withdrawn by the Complainant at the Hearing.

Complainant's Requested Value: \$ 31,270,000.

Party Positions:**Complainant's Position**

With regard to the assessed Big Box space the Complainant indicated to the CARB that the subject property is owner occupied; therefore, there is no lease data pertaining specifically to the subject property. The Complainant contends that the rental rate applied by the Assessor is not equitable to other Calgary located Power Centres. Additionally, the Complainant contends that the very size of the subject property puts it into a unique category that warrants further consideration as it relates to the assessed rental rate. The Complainant is requesting a rental rate of \$8/Sq. Ft. be applied as opposed to the assessed rate of \$10/Sq. Ft.

In support of the requested rate the Complainant introduced (Exhibit C-1 pg. 31) their Retail Anchor Space >100,000 Sq. Ft. wherein the Complainant has provided four somewhat comparable leases dealing with retail space of greater than 100,000 Sq. Ft. The four leases relate to properties ranging from 112,488 Sq. Ft. to 158,022 Sq. Ft. The lease commencement dates range from Sept. '97 to Jan. '04. Three of the properties are free standing retail stores (2 x Wal-Mart and 1 x Zellers) while the fourth is an attached Wal-Mart store but which has no internal access to or from the mall, it has outside access only. The face lease rates range from \$6.85/Sq. Ft. to \$10/Sq. Ft. and indicate a mean of \$8.08/Sq. Ft. and a median of \$7.74/Sq. Ft. The Complainant pointed out to the CARB that the largest of these four properties is still only about 50% the size of the subject and, based on an 'economy of scale' argument would warrant a reduced assessed rental rate. The Complainant produced (Exhibit C-1 pgs. 35 – 113) two of the leases relating to the Wal-Mart stores located at 901 – 64 Ave. NE and 8888 Country Hills Blvd. NW. In addition to the foregoing the Complainant reminded the CARB that the Respondent has continually referred to the subject *Ikea* store as being a major draw for the entire Deerfoot Meadows Power Centre.

With regard to the issue of the assessed capitalization rate, 7.25%, versus the requested capitalization rate of 7.75%, the reader is referred to CARB 2224-2011-P as that Hearing heard the exactly the same evidence and argument, from both parties, as is applicable to this Hearing.

Respondent's Position

The Assessor introduced (Exhibit R-1 pgs. 41 – 44) a copy of CARB Decision 1984-2010-P which dealt with the same property and the same rental rate argument as is presented for this Hearing and noted that the CARB confirmed the assessment in that case. In support of the 'hierarchy theory' referred to by the Complainant, the Assessor provided (Exhibit R-1 pg. 120) five (5) lease comparables from the next lowest property size category of Big Box 50,001 to 100,000 Sq. Ft. which indicate a median rate of \$14.50/Sq. Ft. while the subject, being much larger, has an assessed rate of \$10/Sq. Ft. The Respondent also introduced (Exhibit R-1 pgs. 121 – 122) thirty-two (32) equity comparables of Big Box stores greater than 100,000 Sq. ft. in size that have all been assessed at a rate of \$10/Sq. Ft. The size range of these equity comparables, excluding the subject, is 100,874 Sq. ft. to 182,597 Sq. Ft.

In addition to the foregoing the Respondent also provided (Exhibit R-1 pgs. 510 >) copies of several recent CARB and/or LARB Decisions dealing with Big Box store rental rates.

Board's Decision:

The complaint is allowed, in part, and the assessment is **reduced** to: **\$33,430,000.**

Decision Reasons:

With regard to the matter of the assessed rental rate, the CARB acknowledges that the subject property is unique and essentially represents a Big Box size category of one. The lease comparable evidence presented by the Complainant, although dealing with properties of ½ the size or less of the subject, is compelling as is the Complainant's suggestion that if the hierarchy of rents theory is extended, then the assessed rental rate for the subject should be lower than those of smaller sized properties. The CARB notes that the Respondent did not provide any lease comparables to support their assessed rental rate other than equity comparables. In a matter such as this the CARB finds equity comparables to be of little assistance in that none of the comparables presented are anywhere near the size of the subject. The CARB did note that the Respondent referred to the subject property as being similar to an anchor store in that it serves as a major draw for the entire *Deerfoot Meadows Power Centre*. Noting that the subject property is owner occupied therefore an assessment based upon the Income Approach is hypothetical, the CARB questioned the Respondent as to why that hypothesis would not be extended to treat the subject as an anchor. In response the Respondent indicated that anchor stores are in properties that have attached CRU tenants from which higher rents can serve to offset the low rents typically afforded anchor tenants. This is, in the judgment of the CARB, contrary to the Respondent's claim that the subject serves as a major draw for the subject Power Centre which includes several categories of CRU tenants.

Insofar as the matter of other CARB decisions is concerned, the CARB does not find same to be a basis for making a decision in the case before us. Both parties should be aware that previous decisions are not a determinant for a current decision unless those decisions dealt with exactly the same evidence, argument and fact scenario and even then one panel of the CARB may have a different interpretation of some or all of the data than another panel. In short, previous CARB decisions do not serve well as a reason to confirm or alter an assessment.

The CARB finds the evidence and argument of the Complainant to be more compelling than that put forth by the Respondent. The Respondent's own evidence confirms that the Assessor acknowledges a hierarchy of rents related to size does exist (Exhibit R-1 pg. 120) yet that hierarchy is not extended to the subject property. The CARB is of the judgment that a 312,723 Sq. Ft. retail store is not directly comparable to properties that are roughly ½ the size. The CARB concurs with the analysis and evidence presented by the Complainant and agrees that a more appropriate assessed rental rate for the subject property is \$8/Sq. Ft.

With regard to the capitalization rate issue, the reader is respectfully referred to CARB Decision 2224-2011-P which provides the CARB's decision on this matter based upon the same evidence and argument put forth by these same two parties.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF October 2011.


C. J. Griffin,
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Disclosure
2. C2	Complainant's Disclosure
3. R1	Respondent's 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.*