

**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:

Quinco Financial Inc. (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: 200673796

LOCATION ADDRESS: 9 Heritage Meadows Way SE

HEARING NUMBER: 64414

ASSESSMENT: \$13,410,000.

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/Procedural Matter(s):

As a Procedural Matter both parties requested that the CARB carry forward all of the evidence and argument pertaining to the Jr. Big Box rental rate as presented in Hearing #64235 (CARB 2224-2011-P) and which was before this same CARB panel, as it is the same as is to be presented by both parties for this Hearing.

The CARB agrees with this request and all of the evidence and argument from Hearing #64235 relating to the Jr. Big Box rental rate will; be carried forward and become applicable to this Hearing.

Property Description:

According to the Assessment Summary Report (Exhibit C-1 pg. 10) the subject property is described as being a Retail Shopping Centre – Power with a quality rating of A2. The property is a free standing retail store, specifically The Brick, which has an assessed area of 47,470 Sq. Ft. The underlying site is 5.52 acres in size.

The property has been assessed through application of the Income Approach with the following rental rate in-puts:

Jr. Big Box	14,000 – 50,000 Sq. Ft.	\$21/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 applied to the Jr. Big Box space is not equitable with similar spaces in other Power Centres in the municipality.
2. The assessed capitalization rate of 7.25% is too low and should be increased to 7.75%.

Complainant's Requested Value: \$ 10,150,000.

Party Positions:**Complainant's Position**

With regard to the assessed Jr. Big Box space the Complainant contends that the rental rate of \$21/Sq. Ft. applied by the Assessor is not equitable to other south Calgary located Power Centres, specifically *South Trail Crossing* and *Shawnessy Power Centre*. The Complainant is requesting, based upon their interpretation of equity, an assessed rental rate of \$17/Sq. Ft. In support of the requested rate the Complainant introduced (Exhibit C-1 pgs. 24 – 26) the assessed rental rate applied to similar Jr. Big Box properties located within the above mentioned competing Power Centres and which, having an assessed rental rate of \$17/Sq. Ft., the Complainant suggests, fully supports their requested rate.

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 outlined their position as it relates to the two issues to be considered as follows: 1) the subject Power Centre is superior to other Power Centres in the city and equity has been maintained by employing assessed rental rates that are consistent within this Power Centre and 2) the Complainant has determined their capitalization rate study on a Leased Fee basis while the Assessor is mandated to determine the Fee Simple capitalization rate.

Further to their position regarding the equity issue, the Respondent maintains that the location of the subject *Deerfoot Meadows Power Centre*, with direct vehicle access from both Deerfoot Trail and Heritage Drive and indirect, but simple, vehicular access from Glenmore Trail and Blackfoot Trail is unmatched by any other location in the city. The foregoing being supported (Exhibit R-1 pgs. 30 – 33) by maps and aerial photographs. The Respondent also points out that *Deerfoot Meadows* is the home to *Ikea*, a huge 300,000+ Sq. Ft. home improvement/decorating/furnishings super store that, being the only such store in the city, attracts shoppers from all parts of the city and beyond. Deerfoot Meadows is clearly superior to other Power Centres in the city and this is manifested in the superior rents it is able to generate. Equity is maintained by applying the various categories of assessed rental rates consistently within that same Power Centre and this has been done (Exhibit R-1 pg. 87). To show that different rental rates are applied to, in this case, Jr. Big Box stores in different locations throughout the city, the Respondent introduced (Exhibit R-1 pg. 91) a copy of the assessment for such a property located at 11728 Sarcee Tr. NW reflecting a \$22/Sq. Ft. rate.

With regard to the capitalization rate issue, the reader is again referred to CARB 2224-2011-P as that Hearing heard exactly the same evidence and argument, from both parties, as is applicable to this Hearing.

Board's Decision:

The assessment is **confirmed** at: **\$13,410,000.**

Decision Reasons:

The CARB agrees with the Respondent that, essentially, all power centres are not created equally and that one such centre can certainly be considered superior to another such centre. In the case of the subject the CARB concurs that the location is superior to other such centres in the city due to the adjacent and nearby major roadways. The fact that *Ikea* chose to locate their only Calgary retail super store in the subject *Deerfoot Meadows Power Centre* lends credence to this judgment. The superiority of one property compared to another similar property is, in the case of commercial/retail properties, most often manifested in the achievable rents and it is reasonable, in the judgment of the CARB, that the assessor would apply different rental rates to power centre properties in different locations of the city as has been verified (Exhibit R-1 pg. 89). The CARB is of the judgment that equity is maintained by equally applying the assessed rental rates, depending upon property category, to the various properties within the same Power Centre.

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.

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 10 DAY OF November 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. 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.*