

**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:**

***First Capital (Tuscany) Corporation (as represented by Altus Group Ltd.), COMPLAINANT***

**and**

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

**before:**

***C. J. Griffin, PRESIDING OFFICER***

***D. Cochrane, MEMBER***

***J. Rankin, 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: 200125904**

**LOCATION ADDRESS: 11300 Tuscany Blvd. NW**

**HEARING NUMBER: 63692**

**ASSESSMENT: \$23,610,000.**

This complaint was heard on 19<sup>th</sup> and 20<sup>th</sup> day of September, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- A. Izard

Appeared on behalf of the Respondent:

- R. Ford

**Property Description:**

The subject property is a neighbourhood shopping centre having an assessed area of 83,113 Sq. Ft. The property was originally constructed in 2002/2003 and it sits on a site that is 8.40 acres in size. The assessed value of the subject has been derived through application of the Income Approach to Value.

**Issues:**

There are a number of interrelated issues outlined on the Assessment Review Board Complaint form; however, at the Hearing the Complainant reduced the issues to be considered by the CARB to:

1. The assessment of the subject property is in excess of its market value for assessment purposes
2. The applied rental rates for the various categories of space are too high
3. The applied capitalization rate is too low and should be increased.

**Complainant's Requested Value:** \$21,320,000.

**Party Positions:****Complainant's Position**

The Complainant has valued the subject property through application of the Income Approach to Value (Exhibit C-1 pg. 27) and in so doing has applied the following rental rates:

Grocery Store	\$17/Sq. Ft.
Mezzanine Space	\$ 1/Sq. Ft.
CRU < 1,000 Sq. Ft.	\$28/Sq. Ft.
CRU 1,000 – 2,500 Sq. Ft.	\$28/Sq. Ft.
CRU 2,501 - 6,000 Sq. Ft.	\$24.50/Sq. Ft.
CRU > 6,000 Sq. Ft.	\$17/Sq. Ft.
Retail Bank	\$29/Sq. Ft.

All other in-puts, with the exception of the applied capitalization rate, utilized in application of the Income Approach remain consistent with those applied by the Assessor including, but not restricted to, the applied vacancy rates, the allocation for vacancy shortfall of \$7/Sq. Ft. and a non-recoverable allowance of 1%. In completing their Income Approach, the Complainant has applied an overall capitalization rate of **7.75%** as opposed to the Assessor's 7.25%. Application of the Income Approach with these in-puts results in the Complainant's requested assessed value of \$21,320,000.

In support of their applied rental rates, the Complainant introduced (Exhibit C-1 pgs. 31 – 34) a synopsis of Community/Neighbourhood Shopping Centre Commercial Rental Unit (CRU) rental rate comparisons categorized by leased area. The categories are <1,000 Sq. Ft. (pg. 31), 1,001 – 2,500 Sq. Ft. (pg. 32), 2,500 – 6,000 Sq. Ft. (pg. 33) and 6,000 to 14,000 Sq. Ft. (pg. 34). The median rental rates, by category, are reported as being <1,000 Sq. Ft. @ \$27.50, 1,001 – 2,500 Sq. Ft. @ \$28/Sq. Ft., 2,500 – 6,000 Sq. Ft. @ \$24.50 and 6,000 to 14,000 Sq. Ft. @ \$17/Sq. Ft.

In support of their applied capitalization rate the Complainant introduced (Exhibit C-1 pgs. 49 - 51) extracts from *The City of Calgary Assessment 2009 Retail Capitalization Rate Document* in which the *City of Calgary Retail Capitalization Rate Calculation Process* (pg. 50) is outlined as follows:

*"The Income and Expense data as returned to The City of Calgary, by the owner (Vendor) through the annual Request for Information as per [MGA 295 (1), (2), (3), (4) Duty to Provide Information] was recorded and analyzed as follows*

1. *Contract Income; as reported and collected by the owner;*
  - *Net Rental Rate x Square Footage Area Leased;*
2. *PGI (Potential Gross Income); if there was vacant space in the building at the time of sale, the PGI was calculated based on the leases in place with the assumption that the vacant space will lease up at market rents;*
3. *EGI (Effective Gross Income); calculated by reducing (stabilizing) the PGI by typical vacancy;*
4. *NOI (Net Operating Income); calculated by reducing (stabilizing) the EGI by 1% for non-recoverable expenses and vacancy shortfall;*
5. *The NOI was then divided by the sale price to determine the capitalization rates.*
6. *The median of the capitalization rates is then determined and applied to the population."*

Additionally the Complainant introduced (Exhibit C-1 pgs. 53 – 57) an extract from the *Alberta Assessors' Association Valuation Guide Valuation Parameters – February 1999* a process outline entitled *Determining Market Rents as of the Valuation Date* (pg. 56) that states:

***"Base Rent***

*To determine the current market rent for each tenant, the following guidelines are provided (in order of descending importance):*

1. *For most tenants the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of "market" rents are (in order of descending importance):*
  - *Actual leases signed on or around the valuation date.*
  - *Actual leases within the first three years of their term as of the valuation date.*
  - *Current rents for similar types of stores in the same shopping centre.*
  - *Older leases with active overage rent or step-up clauses.*
2. *As a secondary source of rent information, and as a check on the rents derived from the actual rent rolls, the rental rates can be compared to the rents established for similar tenants in other similar properties.*
3. *If comparable information is not available, it may be necessary to analyse the existing lease and interview the owner and tenant(s) to determine what the current rent on the space should be."*

In consideration of the foregoing the Complainant introduced (Exhibit C-1 pgs 63 – 113) their *Capitalization Rate Analysis* in which five (5) shopping centre sales have been analyzed. The result of this analysis (pg. 113) indicates a weighted mean capitalization rate, using **Market Rent**, of 7.71% and a weighted mean capitalization rate, using **Typical Market Rent** of 7.74%.

The five shopping centre sales analyzed in the above mentioned study are: *Calgary East Retail Centre, Braeside Shopping Centre, Cranston Market, McKnight Village Mall and Chinook Station Office Depot.*

**Respondent's Position**

The Assessor has also valued the subject property through application of the Income Approach to Value but, as has been outlined in the Complainant's position, using different rental rates and a different capitalization rate. In support of their assessed rental rates, for areas less than 14,000 Sq. Ft., the Respondent introduced (Exhibit R-1 pgs.76 - 90) Assessment Request for Information (ARFI) forms pertaining to three northwest Calgary located neighbourhood shopping centres being: Beddington Town Centre, Creekside Shopping Centre and Dalhousie Station. The median rental rates, by size category is summarized as follows: (Exhibit R-1 pg. 89) CRU 0 – 1000 Sq. Ft. @ \$30/Sq. Ft.; (pg. 91) CRU 2501 – 6000 Sq. Ft. @ \$30/Sq. Ft. and CRU 6000 – 14,000 Sq. Ft. @ \$22/Sq. Ft. (latter determined by the CARB). For space larger than 14,000 Sq. Ft. the Assessor introduced (Exhibit R-1 pgs. 93 – 118) several recent (2011) decisions by both the Local Assessment Review Board (LARB) and the CARB which deal with rental rate issues.

With regard to the capitalization rate issue the Assessor provided (Exhibit R-1 pgs. 152 – 154) a synopsis of 3<sup>rd</sup> party capitalization rate studies as well as the Assessor's own analysis of eight (8) shopping centre sales. With regard to the latter, the Assessor's analysis indicated capitalization rates ranging from a low of 5.01% to a high of 8.38% and indicated a median rate of 7.04% which the Assessor maintains supports their applied rate of 7.25%. It should be noted that five (5) of the shopping centre sales analyzed by the Assessor were the same five (5) properties analyzed by the Complainant. Supporting documentation for each of the sales together with the ARFI for that property at the time of sale is provided on pages 296 through 474 of the Assessor's Exhibit R-1. Additionally the Assessor provided (Exhibit R-1 pgs 587 – 667) copies of recent (2011) CARB decisions which confirmed the Assessor's application of the 7.25% capitalization rate.

**Complainant's Rebuttal:**

The Complainant introduced two rebuttal briefs (Exhibits C-3A & C-3B) for the CARB to consider. In their verbal testimony the Complainant highlighted more recent CARB decisions, than those introduced by the Assessor, in which the CARB did accept the evidence and argument of the Complainant and did increase the applied capitalization rate, for properties similar to the subject, to the Complainant's requested 7.75%. The Complainant further submitted (Exhibit C-3B pgs. 351 – 373) a copy of a recent CARB decision which did grant the Complainant's request for application of a 7.75% capitalization rate for a similar neighbourhood shopping centre and the Complainant pointed out to the CARB that the Complainant's evidence for that Hearing was identical to the evidence provided for this Hearing.

**Board's Decision:**

The complaint is denied and the assessment is **confirmed** at: **\$23,610,000.**

**Decision Reasons:**

The CARB is not convinced by the evidence of the Complainant that a change in the assessed rental rates is warranted. The CARB is of the judgment that much of the evidence introduced by the Complainant regarding the rental rate issue stems from northeast located shopping centre properties and it is the further judgment of the CARB that the northeast area of the city has significantly different demographics than does the area of the subject property and the two are

not overly comparable. Additionally, the CARB found that the lease commencement dates relating to the information of the Complainant were more removed from the valuation date than were the lease comparables of the Respondent. In addition, the Respondent concentrated their data, to a large degree, on the subject property and recent leases and/or step-ups from that property. Accordingly the CARB accepts the applied rental rates utilized by the Assessor in the valuation of the subject property for assessment purposes.

With regard to the capitalization rate issue, the CARB analyzed the evidence of both parties, recognising that five (5) of the sales were common to both parties, and found that four (4) of the shopping centre sales should be given little or no consideration for the following reasons:

1. The sale of the Market at Quarry Park attracted the attention of the CARB due to, initially, the very low reported capitalization rate of 5.01%. The reported rate is so low so as to be considered an outlier by the CARB. Upon further investigation the CARB found that NOI estimated by the Assessor is some \$900,000 less than that estimated by the Complainant. When question about this significant differential the Respondent was unable to provide the CARB with an acceptable explanation. As a result the CARB is of the judgment that this sale, as analysed by the Respondent, is unreliable and is not given much consideration.
2. The sale of the Chinook Station Centre (Exhibit C-1 pgs. 100 – 103) refers to one building only and that does not, in the judgment of the CARB, constitute a neighbourhood shopping centre property. Additionally, as indicated (Exhibit R-1 pg. 311) the purchaser of the property reportedly entered into a sale lease-back agreement with the vendor.
3. The McKnight Village Mall sale (Exhibit C-1 pgs. 86 – 99) includes additional properties (refer to Descriptive Remarks in the aforementioned Exhibit C-1) and there is no indication as to how the sale price was affected by same.
4. The sale of the West Springs Village (Exhibit R-1 pgs. 326 – 329) was reportedly purchased without the involvement of a broker and may not have been exposed to the open market which does not meet with the definition of Market Value as given in the MGA (Section 1(n)). Additionally, the sale summary sheet (Exhibit R-1 pg. 328) indicates that the sale involved a rental guarantee of approximately \$300,000 with no indication as to what period of time same applies to.

The Complainant argued that the sale of the Deer Valley Shopping Centre (Exhibit R-1 pgs. 296 – 298) should be excluded from consideration by the CARB as this sale involved additional lands with development potential. The CARB was not provided with succinct evidence that could substantiate this claim and there is no mention of any additional or extra land in the sales documentation. The Complainant introduced (Exhibit C-3B pgs. 308 – 312) a history of Building Permits applicable to this property; however, the CARB noted that the total of \$3.6 million dollars (Exhibit C-3B pg. 308) referred to by the Complainant had in fact been initiated subsequent to the sale date and would thus have had no impact upon the sale of the property.

As a result of the foregoing the CARB concluded that the sales to be considered in this matter consist of: 1) Calgary East Retail (2929 Sunridge Way NE), 2) Braeside Shopping Centre (1919 Southland Dr. SW), 3) Cranston Market (356 Cranston Rd. SE) and 4) Deer Valley Shopping Centre (1221 Canyon Meadows Dr. SE). The CARB finds the capitalization rates of these four

sales, as analyzed by the Respondent, to average 7.21% while these same four sales, as analyzed by the Complainant (including the Deer Valley property as analyzed by the Respondent) indicates an average of 7.34%. It is the judgment of the CARB that the foregoing is much more supportive of the 7.25% capitalization rate applied by the Respondent than it is of the requested 7.75% rate requested by the Complainant.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF October 2011.



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C. J. Griffin,  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C-1	Complainant Brief
2. C-2	Complainant's Typical & Market Cap Handout
3. C-3A	Complainant's Cap Rate Rebuttal Submission
4. C-3B	Complainant's Calgary East Retail Centre
5. R-1	Respondent's Brief

*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.*