

**COMPOSITE
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:

***Les Galeries Danjou Limitee
(as represented by Altus Group Ltd.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***C. J. Griffin, PRESIDING OFFICER
B. Jercel, MEMBER
R. Deschaine, 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: 200151322

LOCATION ADDRESS: 3625 Shaganappi Trail NW

HEARING NUMBER: 62879

ASSESSMENT: \$520,860,000.

This complaint was heard on 7th day of November, 2011 at the office of the Assessment Review Board located at 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- D. Hamilton
- K. Fong

Appeared on behalf of the Respondent:

- D. Zhao

Preliminary and/or Procedural Matter(s):

The Respondent brought forward an objection to pages 63 – 67 and page 71 of the Complainant's Exhibit C-1 on the basis that same relates to information requested by the Assessor but not supplied by the property owner.

The Complainant maintains that the information in question was dispatched to the Assessor by way of facsimile transmission and they had not been made aware that some or all of the pages in said facsimile had not been properly received by the Assessor.

The CARB is of the judgment that this appears to have been a simple error in the transmission of the facsimile and that there is no evidence of intentional exclusion of any particular information. In consideration of the foregoing the CARB will consider the information and give it only such weight as the CARB deems is appropriate.

Property Description:

The subject property is, according to the Assessment Summary Report (Exhibit C-1 pg. 17), an A2 quality Regional Shopping Centre that contains a total assessable area of 941,997 Sq. Ft. The property, which was constructed in 1970/71, sits on a 56.07 acre site. The assessment influences are noted as being: Traffic Expressway/Freeway and Corner Lot. The assessment of the property is based upon application of the Income Approach to Value.

Issues:

While there are a number of interrelated issues outlined on the Assessment Review Board Complaint form, the Complainant reduced the issues to be considered by the CARB to:

1. The assessed market rent for the category Commercial Rental Units (CRU) 1,001 to 2,500 Sq. Ft. is incorrect at \$85/Sq. Ft. and it should be \$80/Sq. Ft.
2. The assessed market rent for the category CRU 6,001 to 15,000 Sq. Ft. is incorrect at \$50/Sq. Ft. and should be \$45/Sq. Ft.
3. The assessed market rent for the category CRU 15,001 Sq. Ft and greater is incorrect at \$30/Sq. Ft. and it should be \$23/Sq. Ft.
4. The applied CRU vacancy rate of 1% is too low and it should be 2%.
5. The applied Storage vacancy rate is too low at 1% and should be 35%.

Complainant's Requested Value: \$486,350,000. (Exhibit C3 pg. 94)

Party Positions:**Complainant's Position**

The Complainant introduced (Exhibit C-1 pgs. 43 – 70) a copy of the Rent Roll for the subject property dated July 1, 2010 which, at page 66, reports a total CRU vacancy of 7,572 Sq. Ft. which, based upon the assessed rental rates, would equate to a loss of \$563,120/Yr. Additionally this same Rent Roll, on page 67, reports the storage space vacancy to be 3,275 Sq. Ft. which, based upon the assessed rate of \$15/Sq. Ft. equates to a loss of \$49,125/Yr. Therefore, according to the Rent Roll the actual vacancy loss totals \$612,415 for the 2010 assessment year as opposed to the assessed allocation of \$359,057.

The Complainant maintains that the Assessor has altered the approach for assessing vacancy for the 2010 assessment year for this category of property in that they have applied one single vacancy rate to the entire income stream. In the past different rates were applied to various tenant categories (Exhibit C-1 pg. 81) and different rates for different tenant categories are being applied to other retail properties such as Power Centres (Exhibit C-1 pg. 84). This new approach is not in keeping with the recommendations of the Alberta Assessors' Association Valuation Guide for shopping centres (Exhibit C-1 pg. 75).

Insofar as the requested rental rates are concerned, the Complainant introduced (Exhibit C-1 pgs. 87, 88 & 90) summaries of CRU leases for the categories 1,001 to 2,500 Sq. Ft. (page 87), 6,001 to 15,000 Sq. Ft. (page 88) and 15,001 and greater (page 90). In the first category of 1,001 to 2,500 Sq. Ft. the Complainant provided a total of 16 lease summaries, from the subject property, dated in 2009 and 2010 which indicates an average rate of \$80.42/Sq. Ft. Similarly for the category 6,001 to 15,000 Sq. Ft. the Complainant provides a summary of three (3) lease deals, from the subject property, dated in 2009 and 2010 which indicate an average rate of \$44.53/Sq. Ft. For the category 15,001 Sq. Ft. and greater the Complainant provide a summary of a lease signed, in October 2009, for a 34,749 Sq. Ft. space in the Southcentre Regional Shopping Centre. This lease indicates a rate of \$19.14/Sq. Ft. for the period Feb. 01/11 through September 30/14.

Based upon this information the Complainant has recalculated the assessed value (Exhibit C-3 pg. 93) of the subject property by applying the Income Approach to Value utilizing the requested inputs to derive a requested value of \$486,350,000.

Respondent's Position

The Assessor provided (Exhibit R-1 pg. 59) a vacancy report for the subject property dated April 2010 indicating a total CRU vacancy of 7,572 Sq. Ft. (same as indicated by the Complainant) and that equates to a rate of less than 1% based upon a total area of 941,997 Sq. Ft. (as agreed by the Complainant) and this fully supports the applied vacancy rate of 1%. With regard to the storage area the Respondent indicated that they had not received information from the property owner relating to same (hence the Preliminary Matter); however, in the judgment of the Assessor it would not be reasonable to expect an excessive storage vacancy in a Regional Shopping Centre such as the subject that is reporting an overall vacancy rate of less than 1%. Insofar as the Assessors' Association Valuation Guide, the Assessor maintains that same is just a guide and the recommendations made in same are simply guides and are not mandatory.

With regard to the assessed rental rates, the Assessor provided (Exhibit R-1 pgs. 60 – 62) lease comparables for the CRU 1,001 to 2,500 Sq. Ft. category (page 60), the 6,001 to 15,000 Sq. Ft. category (page 61) and the 15,001 Sq. Ft. and greater category (page 62). For the 1,001 to 2,500 Sq. Ft. category the Respondent provide a summary of 2008, 2009 and 2010 leases signed at the subject property which indicates an average rate of \$100/Sq. Ft. and a Median rate of \$90/Sq. Ft. Similarly in the 6,001 to 15,000 Sq. Ft. category the Respondent provided five (5) examples of leases from the subject property signed between June 1, 2008 and February 1, 2010 which indicates an average rate of \$56.97/Sq. Ft. and a Median rate of \$50/Sq. Ft. For the last category of 15,001 Sq. Ft. and greater, the Respondent provided six (6) lease comparables, one of which dates back to 1992, three of which date back to 2004 and two of which date back to 2007. The indicated average rate is \$32.76/Sq. Ft. and the indicated Median rate is \$30.15/Sq Ft., all of which fully support the rates applied by the Assessor.

Board's Decision:

The assessment is **confirmed** at \$520,860,000.

Board Reasons:

The CARB finds that the rent roll for the subject property (as provided by both parties) fully supports the applied 1% CRU vacancy rate and can find no justification for the requested 2% CRU vacancy rate. Insofar as the storage area vacancy rate is concerned, the CARB concurs with the Respondent that it does not seem at all reasonable that a major shopping centre that is reporting less than 1% vacancy rate overall would encounter a 35% vacancy rate for the storage areas. While the CARB acknowledges that the property owner does report such a vacancy rate in their July 2010 rent roll, this is simply a snap-shot in time, not an annualized number. If the property does indeed suffer from a chronic vacancy in the storage area there was no such information provided for the CARB to consider. Similarly if the storage area is of such a design or location that it might lead to such an abnormally high vacancy rate, no such information was provide for the CARB to consider. Given this lack of information the CARB finds no justification to alter the storage area vacancy rate.

Insofar as the requested rental rates are concerned, the CARB notes that most of the lease data pertaining to the subject property is the same from both parties; however, the Complainant has reported the rental rates for a specific period of time as opposed to reporting an average for the lease term. It is the judgment of the CARB that this distorts the rental rate as, under normal conditions, in a longer term lease agreement a lower initial rental rate is recovered, to one degree or another, in the latter part of the term. This is particularly evident in the case of the *Crate & Barrel* lease (Exhibit C-1 pg. 90) which indicates that the 34,749 Sq. Ft. space is rent and operating cost free to the tenant for the period of October 7, 2009 through January 1, 2011 which means that the space was being provided on a rent free basis as at the valuation date of July 1, 2010; however, that is certainly not indicative of the market rent for that space at that time. If the same lease is averaged for the term of the lease the indicated rate equates to \$26.74/Sq. Ft. which is more supportive of the applied \$30/Sq. Ft. than the requested \$23/Sq. Ft.

It is the responsibility of the Complainant to provide the CARB with sufficient, unequivocal evidence to warrant a change in the assessed value of any given property and in this case the CARB is of the judgment that the Complainant has failed to do so.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF December 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 Continued
3. C3	Complainant's Requested Assessment Calculation
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.*