

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

between:

***Evergreen Village Inc
(as represented by Altus Group Ltd.),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***Earl K Williams, PRESIDING OFFICER
P Charuk, MEMBER
J Pratt, 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: 200537488

LOCATION ADDRESS: 2250 162 Avenue SW

HEARING NUMBER: 64524

ASSESSMENT: \$6,730,000

This complaint was heard on 5th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- B Neeson (Altus Group Ltd)

Appeared on behalf of the Respondent:

- R Ford

Property Description:

The subject property at 2250 162 Avenue SW is a 30,733 square foot (sq ft) shopping centre constructed in 2004 on 2.84 acres of land in the community of Evergreen Estates with the Property Use: Commercial and Sub Property Use: CM0203 Retail Shopping Centre – Neighbourhood. Two influences have been identified: corner lot and traffic main. There are 3 buildings on the subject property.

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

The parties identified to the Board that the evidence and arguments to be presented in respect of the subject property would be the same as had been presented at a hearing on October 5, 2011 when the Composite Assessment Review Board agreed that the evidence and argument would be carried forward. The subject property is one of those properties included in that decision of the CARB. Both parties have utilized the Income Approach to Value (IAV) for the purposes of arriving at market value for assessment purposes. It was agreed that the hearings, included a determination and application of a capitalization rate (cap rate) within the respective valuation positions. The parties purposed to progress their respective cap rate evidence and arguments before the Board once and then, in the interests of succinctness, ask the Board to carry forward said evidence and arguments' to the two other properties scheduled for October 5 and 6, 2011. It was accepted that the Board's findings and decision regarding the cap rate issue would therefore be common to all properties. The Board found this to be an appropriate approach to the matters at hand.

Issues:

The current assessed capitalization rate of 7.25% is not reflective of the Complainant's analysis of sales of similar properties and the correct capitalization rate to apply is 7.75%.

Complainant's Requested Value: \$6,300,000

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

The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

The Complainant's evidence package included a Summary of Testimonial Evidence; a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2011 Assessment Summary Report, an Altus Group study titled Community-Neighbourhood Shopping Centres 2011 Capitalization Rate Analysis & Argument (Altus Cap

Rate Study), an analysis of a number of comparable properties, excerpts from applicable legislation, excerpts of technical information related to capitalization rate methodology, excerpts from the City of Calgary Capitalization Rate Approach, excerpts from the Alberta Assessor's Association Valuation Guide related to the method to determine the base rent and the Capitalization Rate calculation, as well as a number of Assessment Review Board and Municipal Government Board decisions in support of their position.

The Respondent's evidence package included a Summary of Testimonial Evidence; a map identifying the location of the property, photographs of the exterior of the subject property, an analysis of the Assessment to Sales Ratio for comparable properties as well as a number of Assessment Review Board and Municipal Government Board decisions in support of their position.

Both parties placed numerous technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of document and are therefore seen by the Board as incomplete material and may be given limited weight.

As noted above both parties placed a number of Assessment Review Board and Municipal Government Board decisions before this Board in support of their position. While the Board has the utmost respect for the decisions rendered by these tribunals, it is also recognized that these decisions were made in respect of issues and evidence that may be dissimilar to that before this Board. This Board will therefore not give much weight to these decisions unless the issues and evidence are shown to be timely, relevant and materially identical to the subject complaint.

Complainant's Position:

The Complainant cites numerous technical documents, court and assessment tribunal decisions that support the practice of deriving capitalization rates using actual income and actual sale price for each property being analyzed in a capitalization rate study. Further, the evidence contains materials produced by the City of Calgary in years past that described this extraction method as being the most appropriate method. That is generally the procedure used in the Altus Cap. Rate Study wherein two capitalization rates are derived from sales — one based on "typical" income and one based on "market" income.

One of the documents presented by the Complainant was an excerpt from the Alberta Assessors' Association Valuation Guide setting out valuation parameters for the assessment of income producing properties. The excerpt was titled 3.0 Determining Market Rents (page 55 – 58 of Exhibit C-1). On page 57 was a section titled Determining Market Rents as of the Valuation Date. The following portion of that section guide is highlighted:

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 analyze the existing leases and interview the owner and tenant(s) to determine what the current rent on the space should be.

The Respondent followed these guidelines in its analysis of shopping centres comparable to the subject property. The Respondent reviewed in detail the method utilized to determine the base rent utilized in the calculation of the income; the parameters for vacancy, operating costs and non-recoverable expense, which are the typical parameters used in making shopping centre assessments; and the calculation of the capitalization rate for the comparable properties. Rents were obtained from actual leases in place at the time of sale and from new leases in similar shopping centres within the market area of each property.

Five sale transactions were examined based on the methodology outlined in Exhibit C-1. The analysis is presented in the table titled: 2011 Shopping Centre Capitalization Rate Analysis, Typical Market Rent Capitalization Rate Valuation. The results are summarized below

Property	Registration Date	Sale Price	Typical PGI	Typical NOI	CAP. RATE
306 Glenmore Trail SW	01/20/2009	\$6,944,450	\$624,162	\$600,509	8.65%
5220 Falsbridge Gate NE	05/19/2009	\$19,270,000	\$1,602,643	\$1,546,503	8.03%
356 Cranston Rd SE	10/28/2009	\$32,000,000	\$2,454,272	\$2,348,706	7.34%
1919 Southland DR SW	12/14/2009	\$15,275,000	\$1,216,777	\$1,177,450	7.71%
2929 Sunridge Way NE	12/18/2009	\$19,585,500	\$1,578,842	\$1,530,441	7.81%

Legend: PGI = Potential Gross Income; NOI = Net Operating Income; CAP. RATE = Capitalization Rate;

An analysis of the Capitalization Rate presented in the above Table determined the following:

Mean 7.91%
Median 7.81%
Weighted Mean 7.74%

In summary the Complainant concluded that based on the analysis of the sales transactions of comparables that are in the same class as the subject the correct capitalization rate for this group of properties is 7.75%.

Respondent Position:

The Respondent argued that consistency demands that capitalization rates be derived in similar fashion to the way in which they are applied in valuing a property. That is that typical factors, including rents must be applied to a property when analyzing its sale. The analyst must be careful to apply those typical rates and factors that were applicable as at the time of the sale.

The Respondent presented on page 19 of Exhibit R-1 a table titled: Complainant's Sales - Neighbourhood, Community Centre Capitalization Rate Assessment to Sales Ratios, 7.25 vs 7.75%, which compared the Assessment to Sales Ratios (ASR) using a 7.25% cap rate versus the ASR using a 7.75% cap rate for the same 5 properties utilized by the Complainant. To make the comparison it was necessary to calculate a Hypothetical Assessment's using a 7.75% capitalization rate and a Time Adjusted Sale price. The following table presents the ASR using the two capitalization rates.

Property	Registration Date	ASR Using 7.25%	ASR Using 7.75%
306 Glenmore Trail SW	01/20/2009	0.98	0.91
5220 Falsbridge Gate NE	05/19/2009	0.99	0.89
356 Cranston Rd SE	10/28/2009	0.84	0.78
1919 Southland DR SW	12/14/2009	0.96	0.90
2929 Sunridge Way NE	12/18/2009	1.11	1.05
Median		0.98	0.90
Average		0.98	0.90

The Respondent argued that the Table presented on page 19 of Exhibit R-1 demonstrates that the median ASR of 0.98 using the 7.25% capitalization rate meets the quality standards of Matters Relating to Assessment and Taxation Regulation 220/2004 (MRAT).

Board's Findings:

Based on the evidence presented the Respondent was able to demonstrate that the ASR using 7.25% meets the quality standard set out in Section 10 (3) Quality Standards of Matters Relating to Assessment and Taxation Regulation 220/2004 (MRAT) which states:

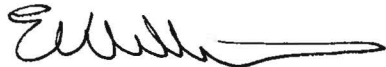
Section 10 (3): For any stratum of the property type described in the following table, the quality standards set out in the table must be met in the preparation of assessments:

Property Type	Median Assessment Ratio	Coefficient of Dispersion
Property containing 1,2 or 3 dwelling units	0.950-1.050	0 -15.0
All other property	0.950-1.050	0 -20.0

Board's Decision:

Based on the evidence presented the Board the assessment is confirmed

DATED AT THE CITY OF CALGARY THIS 4th DAY OF December 2011.



Earl K Williams
Presiding Officer

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

- | | |
|--------|---------------------------------|
| 1. C1 | Complainant Disclosure |
| 2. C2A | Complainant Rebuttal Disclosure |
| 3. C2B | Complainant Rebuttal Disclosure |
| 4. R1 | Respondent 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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	RETAIL	NEIGHBOURHOOD	Income Approach	Cap Rate