

**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:**

***Signature Pointe Developments Inc., (as represented by Altus Group), COMPLAINANT***

**and**

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

**before:**

***T. Hudson, PRESIDING OFFICER***

***H. Ang, MEMBER***

***J. Kerrison, 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: 084183904**

**LOCATION ADDRESS: 1851 Sirocco DR SW**

**HEARING NUMBER: 62996**

**ASSESSMENT: \$23,050,000**

This complaint was heard on the 28<sup>th</sup> day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- A. Izard
- D. Hamilton

Appeared on behalf of the Respondent:

- R. Ford

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

There were no procedural or jurisdictional matters raised by the Parties.

**Property Description:**

The subject property is a 4.92 acre parcel located in the Signal Hill community at 1851 Sirocco DR SW. The parcel is located in a Direct Control District and designated a Special Purpose-City and Regional Infrastructure Area. The parcel is leased to the assessed party by the City of Calgary, and improved by the assessed party in 1999 with five (5) commercial buildings that include a total of 61,117 square feet (sf.) of net rentable area. The subject property, also known as West Market Square, is currently assessed using typical Neighborhood/Community shopping centre valuation factors, and the capitalized net income approach, to a total of \$23,050,000.

**Background:**

The City of Calgary leased the unimproved parcel to Signature Pointe Developments Inc., (S.P.D.I.) on April 14, 1997, for an initial term of 35 years, with three (3), 5 year options to renew after the initial term.

S.P.D.I. constructed the shopping centre on the subject parcel, and has a Leasehold Interest in the property subject to the conditions of the land lease with the City of Calgary. The initial term of the lease is set to expire in 2032, and upon termination, the shopping centre must be removed and the site cleared.

However, the property must be assessed based on market value and unencumbered Fee Simple Interest, as is required by the Matters Relating to Assessment and Taxation Regulation (MRAT), Part 1: Standards of Assessment, Section 2, which states,

“An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property

The Complainant is requesting a reduction in the assessment to reflect the increased investment risk and impact on market value; due to the "short" life of the improvements, imposed by the terms of the land lease.

A similar property with "short" life improvements on land leased from the City of Calgary, known as Heritage Plaza is located at 8330 Macleod TR SE. The Complainant advised that an adjustment to the cap rate has been used to calculate the market value assessment for this property, and is asking for equitable treatment for the subject property.

**Issues:**

In Order to Achieve the Best Estimate of Market Value, should the Assessed Net Operating Income(NOI) of the Subject Property be Capitalized at 7.25%, or at 7.75%?

Should the Assessed Rental Rates for Commercial Rental Unit (CRU) Space be Reduced?

- > 1,000 square feet from \$38 to \$32 per square foot (psf.)
- 1,001- 2,500 sf. from \$32 to \$28 psf.
- 2,501- 6,000 sf. from \$34 to \$24 psf.

Should the Assessed Rental Rate for Office Space be Reduced from \$30 from \$20 psf.?

Should the Assessed Cap Rate be Adjusted to Reflect the "Short" Life of the Improvements?

**Complainant's Requested Value:** \$12,660,000(rounded).

**Board's Finding in Respect of Each Matter or Issue:**

In Order to Achieve the Best Estimate of Market Value, should the Assessed Net Operating Income(NOI) of the Subject Property be Capitalized at 7.25%, or at 7.75%?

**The Board finds that the assessed NOI should be capitalized at 7.25% to achieve the best estimate of market value for the subject property.**

On a balance of probabilities, the Board has to be persuaded that application of the proposed 7.75% cap rate to the assessed net operating income (NOI) of the subject property, would result in a better estimate of market value for assessment purposes.

The Respondent did not submit any evidence in support of the cap rate used to prepare the current assessment. The Complainant did submit considerable criticism of the Respondent's inconsistent process and questionable sales leading to the 7.25% cap rate used to prepare the 2011 assessments of all Neighborhood/Community shopping centres in Calgary.

However, the inconsistent use of actual and "equitable" rental values by the Complainant was also a significant concern raised by the Respondent. Mixing actual and "equitable" values may result in a cap rate and subsequent estimate of market value which reflects a lease fee estate rather than the fee simple estate required by the legislation and regulations governing property assessment in Alberta .

The Respondent also submitted a Neighborhood/Community Centre Capitalization Rate Assessment to Sale Ratio (ASR) Chart, (page 29 of Exhibit R1). The Chart compares the ASR results for each of the five (5) sale properties used by the Complainant to develop the proposed 7.75% cap rate.

The proposed 7.75% cap rate, and the assessed 7.25% cap rate, were each applied to the 2011 assessed NOI of the sale properties. The resulting assessment estimates were then divided by the sale price of each property, to calculate an ASR. The median ASR of the sales is 1.00 using the assessed 7.25% cap rate; while the median ASR is .93 using the proposed 7.75% cap rate. Given that the quality standard is .95 to 1.05, the evidence does not support the change in cap rate proposed by the Complainant.

Should the Assessed Rental Rates for Commercial Rental Unit (CRU) Space be Reduced?

- > 1,000 square feet from \$38 from \$32 per square foot (psf.)
- 1,001- 2,500 sf. from \$36 to \$28 psf.
- 2,501- 6,000 sf. from \$34 to \$24 psf.

**The Board finds insufficient evidence to reduce the assessed CRU rental rates for the subject property. The Board placed little weight on CARB decision 2283/2011-P due to a lack of supporting market evidence.**

In support of the requested reduction in the assessed rental rates for CRU space, the Complainant submitted the assessed rates within the Strathcona and West Springs Community Shopping Centres in SW Calgary, as equity comparables. There was no market evidence submitted by the Complainant.

The Respondent countered with the assessed rental rates within the Aspen Landing Community Shopping Centre in SW Calgary where the CRU rates are the same as that of the subject. The Respondent also submitted the rent rolls for CRU space within both Aspen Landing and the subject, which show that current market rents support the current assessed rates. The Respondent also noted that Aspen Landing and the subject share the same A+ quality rating. By contrast both of the Complainant comparables are rated A-.

In rebuttal, the Complainant submitted CARB decision 2283/2011-P, which resulted in a reduction in the assessed rental rates for CRU space at Aspen Landing as follows: < 1,000 sf. (from \$38 to \$37psf.) and for 2,501- 6,000 sf. (from \$34 to \$33 psf.)

Should the Assessed Rental Rate for Office Space be Reduced from \$30 to \$20 psf.?

**The Board finds insufficient evidence to reduce the assessed rental rate for office space to \$20 psf. The Board placed little weight on CARB decision 2283/2011-P due to a lack of supporting market evidence.**

The Complainant submitted the assessed rental rates for suburban retail office space in various locations in Calgary which ranged from \$19 to \$22 psf.; all in support of the \$20 psf. rate requested for the subject. There was no market evidence submitted.

The Respondent countered with the assessed office rental rate within the Aspen Landing Community Shopping Centre which is the same as that of the subject. The Respondent also submitted the rent rolls for office space within both Aspen Landing and the subject, which show that current market rents support the current assessed rate.

In rebuttal, the Complainant submitted CARB decision 2283/2011-P, which resulted in a reduction to \$25 psf. for the assessed office rental rate at Aspen Landing.

Should the Assessed Cap Rate be Adjusted to Reflect the "Short" Life of the Improvements?

**The Board finds that the subject property is comparable to the Heritage Plaza Property with respect to the "short" life risk associated with the investment in the improvements on the parcel, under a similar land lease agreement with the City of Calgary. Therefore, the Board finds that an adjustment of the assessed cap rate to 10.13% as requested by the Complainant, is appropriate to achieve assessment fairness and equity for the subject property.**

As previously noted in this decision, the initial term of the land lease agreement between S.P.D. I., and the City of Calgary will expire in 2032. Upon termination of the lease, the shopping centre must be removed, and the parcel cleared. The complete land lease agreement for the subject property was submitted by the Complainant in Exhibit C1, Pages 214 to 251, inclusive.

In addition, two decisions of the Municipal Government Board (MGB), (i.e. Board Order: MGB 105/06, and MGB 154/07) with respect to appeals of the Heritage Plaza assessments were also submitted by the Complainant in Exhibit C1, Pages 168 to 211, inclusive.

The method used in both of the MGB decisions to determine the appropriate capitalization rate adjustment for the Heritage Plaza has been adopted by the Complainant. There was also evidence that the Respondent has used this method to prepare the Heritage Plaza 2011 assessment (Exhibit C1 page 256).

The method is referred to as the "Direct Capitalization Straight Line Overall Investment Recovery Analysis". For a perpetual life term (i.e. approximately 60 years), the 7.25% cap rate blends a 5.58% annual discount rate with a recapture rate of 1.67%. To reflect the 22-year investment recovery period remaining for the subject, the investment recapture rate has been adjusted by dividing the 100% investment by the remaining 22 year building life. This produced an investment recapture rate of 4.55%. This rate was then added to the assessed discount rate of 5.58% to generate an adjusted cap rate of 10.13%. When this cap rate is applied to the assessed NOI of \$1,671,180, the assessed value for the subject becomes \$16,497,334 or

The Respondent noted that the land lease for the subject differs from the land lease for the Heritage Plaza. The subject land lease includes a provision allowing S.P.D.I. an option to purchase the interest of the City of Calgary in the property (Clause 1.05 (a), page 220 of Exhibit C1). The Respondent indicated that the Heritage Plaza land lease has no such option, however the lease document was not in evidence before the Board.

The Complainant pointed out that the condition associated with exercise of the option to purchase by S.P. D. I. is subject to the City Of Calgary declaring the property as "surplus to any municipal purposes" Clause 1.05 (b), page 221 of Exhibit C1).

**Board's Decision:** The assessment is reduced to \$16,490,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF November 2011.



**T. B. Hudson**  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure Appendix
3. C3, C4, C5	Complainant Rebuttal
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 MGB Administrative Use Only**

<i>Decision No.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Community Shopping Centre	Short Life land Lease	Cap Rate, Rent Rates