

**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:

***Riokim holdings (Alberta) Inc., COMPLAINANT
(as represented by Altus Group Limited)***

and

The City of Calgary, RESPONDENT

before:

J. Dawson, PRESIDING OFFICER

M. Grace, MEMBER

J. Mathias, MEMBER

This is a complaint to the Calgary 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:	757118302
LOCATION ADDRESS:	350R Shawville Boulevard SE
HEARING NUMBER:	61084
ASSESSMENT:	\$ 24,340,000

This complaint was heard on the 14th day of November, 2011 at the office of the Assessment Review Board (ARB) located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- B. Neeson Agent, Altus Group Limited

Appeared on behalf of the Respondent:

- P. Sembrat Assessor, City of Calgary

Board's Decision in Respect of Preliminary, Procedural and Jurisdictional Matters:

Issue 1 - Cross reference evidence

At the beginning of the hearing both parties agreed to cross reference evidence for six hearing before the Board:

ROLL NUMBER:	LOCATION ADDRESS:	HEARING NUMBER:	ASSESSMENT:
757117809	303 Shawville Boulevard SE	63319	\$21,880,000
757100508	250 Shawville Boulevard SE	63313	\$28,730,000
757118005	296 Shawville Boulevard SE	63320	\$2,790,000
757118302	350R Shawville Boulevard SE	61084	\$24,340,000
757118401	350 Shawville Boulevard SE	63323	\$11,060,000
757118708	85 Shawville Boulevard SE	63325	\$25,670,000

The Board conducted six separate hearings however all evidence heard in one hearing above including all evidence, comments, questions and answers is to be cross referenced and incorporated just as if it were presented during the remainder of the six hearings.

No additional preliminary, procedural or jurisdictional matters were raised.

Property Description:

The subject is classified as non-residential with retail – power centre use and a Commercial – Regional 3 (CR-3) Land Use Designation (LUD). The site located at 350R Shawville Boulevard SE is 7.27 acres with one building built in 1999 of a 'B' quality. The building has a total of 106,516 square feet of assessable area:

Sub Component	Area (square feet)	Market Rental Rate	Vacancy	Operating Costs	Non Recoverables
Jr. Big Box 14001-50 k ft ²	106,516	\$17.00	1.00%	\$9.00	1.00%

The Respondent utilized a 7.25% capitalization rate (cap. rate) to derive an assessment of \$24,340,000.

Issues:

The Complainant identified two matters on the complaint form:

- Matter 3 - assessment amount
- Matter 4 - assessment class

Upon review the Complainant confirmed the single matter of assessment amount remains in question with the following questions to be answered by the Board:

- Issue 1 - **What is the correct market rental rate for Jr. Big Box on the subject site?**
- Issue 2 - **What is the correct capitalization rate for the subject site?**

Complainant's Requested Value: \$ 18,970,000 (complaint form)
\$ 20,080,000 (disclosure)

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

What is the correct market rental rate for Jr. Big Box on the subject site?

The Board finds the correct market rental rate for Jr. Big Box on the subject site is \$15.00 per square foot.

The Complainant requested a change in the market rental rate for Jr. Big Box stores located on the subject parcel from \$17.00 per square foot to \$15.00 per square foot.

The Complainant feels that there is sufficient market data within the subject's vicinity to stratify the Shawnessy area separately. The analysis of the Respondent's lease comparables for Jr. Big Box stores (C1 page 39) indicates that the median is \$15.13 per square foot versus the Respondent's median of \$17.05 per square foot (C1 page 37) when utilizing all lease comparables.

The Respondent indicated that the citywide stratification produced a more typical reflection of the market value. The Respondent argued that taking a lease sample from one power centre creates too small of a sample and does not treat power centres equitably.

The Complainant rebutted that the Respondent only follows that methodology when it meets its needs and varied it when placing a market rental rate on Jr. Big Box stores at Deerfoot Meadows at \$21.00 per square foot, Beacon Hill at \$22.00 per square foot, and Crowfoot Centre at \$22.00 per square foot.

The Board finds that the methodology employed by the Respondent is neither equitable nor consistent. The Board finds there is sufficient lease data within the Shawnessy Power Centre to establish a market rental rate for Jr. Big Box stores.

What is the correct capitalization rate for the subject site?

The Board finds the correct capitalization rate for the subject site is 7.25%.

The Complainant requested a change in the 7.25% capitalization rate for the subject to a rate of 7.75% as the correct rate for this property.

The Complainant feels that it has the appropriate approach when determining a capitalization rate; using actual lease data from Assessment Request for Information (ARFI) of the subject and modifying some rates to arrive at a typical rental rate.

The Complainant provided three sales of comparable power centres that occurred during the valuation period of July 2009 to June 2010. All three sales are within close proximity of each other in North West Calgary. The Complainant reviewed the data sheets for these comparable sales and presented in its evidence (C1). Based on its analysis, the Complainant concluded that the appropriate capitalization rate to use in the income calculation to derive the assessed value of the subject is 7.75%.

The Complainant acknowledged that two of its comparable sales were purchased by one buyer and had one seller but indicated it was not a portfolio sale as evidenced by the sale dates not being identical; one was July 30, 2009 and the other was August 1, 2009.

The Complainant's methodology involved using comparable sales with relatively recent leases. Vacant space was assumed to be leased at market rates actually being achieved by that property. When insufficient data exists for market rates within the centre the Complainant used rates from nearby centres. The Complainant accepted all other inputs derived by the Respondent. In essence the Complainant used typical data from the Respondent's stratification and mixed that with actual data from each property except where actual data was not available in which case typical data was used. The capitalization rate calculated for each of the three comparables ranged from 7.28% to 8.35%, with a mean of 7.80% and weighted mean of 7.95%.

The Respondent indicated that it is required to use the mass appraisal approach in deriving an assessment value. Mass appraisal principles rely on typical rates, to treat similar properties in an equitable manner. For assessment purposes, typical rates must be used, and are used by the City in its assessment model to calculate the assessed value of the subject.

The Board accepts that calculating the value of a property using the income approach must be based on a consistent methodology. In other words, if "actual" rates are to be used to calculate a value using an income approach, then all factors in that calculation must reflect actual values. On the other hand, if typical rates are used to calculate value using an income approach, then all factors in that calculation must be typical rates. It is not appropriate to calculate the value of a property using the income approach using factors derived from actual data mixed with factors derived from typical data.


The Complainant, in many cases, used actual lease rates to calculate its capitalization rate, and then applied that capitalization rate to typical lease rates used by the City in its assessment calculation. This mixing of the two methods is not appropriate. Furthermore, for assessment purposes, typical rates are required.

The Board does not agree with the calculation used by the Complainant, as it is based on factors and rates derived using different methodologies. If the Complainant uses its capitalization rate of 7.75%, it also has to use rental rates and other factors derived from actual data. This was not done. The Board is not persuaded by the Complainant's analysis or evidence.

Board's Decision:

After considering all the evidence and argument before the Board it is determined that the subject assessment is to be reduced to a value of \$21,460,000. This reflects a \$15.00 per square foot Jr. Big Box rental rate and a 7.25% capitalization rate.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF December 2011.


J. Dawson
Presiding Officer

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

NO.	ITEM
1.	C1 Complainant Disclosure
2.	R1a Respondent Disclosure – part 1
3.	R1b Respondent Disclosure – part 2
4.	C2 Rebuttal Disclosure – Capitalization Rate
5.	C3 Rebuttal Disclosure – 3 rd Party Reports
6.	C4 Rebuttal Disclosure – excerpts of Respondent disclosure for hearing 60984

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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Power Centre	Income Approach	Cap. Rate
				Rental Rate