

**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:

***First Capital (Fairmount) Corporation, 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:	200571917
LOCATION ADDRESS:	9919 Fairmount Drive SE
HEARING NUMBER:	64272
ASSESSMENT:	\$ 14,680,000

This complaint was heard on the 18th 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:

- I. McDermott Assessor, City of Calgary

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

No preliminary, procedural or jurisdictional matters were raised.

Property Description:

The subject is classified as non-residential with retail – neighbourhood shopping centre use and a Commercial – Community 1 (CC-3) Land Use Designation (LUD). The site located at 9919 Fairmount Drive SE is 4.71 acres with three buildings built between 1964 and 1974 of an 'A-' and 'B+' quality. The three buildings combine for a total of 52,488 square feet of assessable area:

Sub Component	Area (square feet)	Market Rental Rate	Vacancy	Operating Costs	Non Recoverables
Bank	9,065	\$24.00	7.25%	\$7.00	1.00%
CRU 0-1000 ft ²	5,059	\$26.00	7.25%	\$7.00	1.00%
CRU 1001-2500 ft ²	7,815	\$24.00	7.25%	\$7.00	1.00%
CRU 2501-6000 ft ²	3,592	\$22.00	7.25%	\$7.00	1.00%
Gas Bar	1*	\$45,000	7.25%	\$7.00	1.00%
Office	5,394	\$18.00	7.25%	\$7.00	1.00%
Pad Fast Food Restaurant	3,083	\$28.00	7.25%	\$7.00	1.00%
Super Market	18,479	\$17.00	1.00%	\$7.00	1.00%
TOTAL	52,488				

*The assessment authority does not calculate square footage for carwash and gas bar space, rather sets the area to 1 and adjusts the market rental rate.

The Respondent utilized a 7.25% capitalization rate (cap. rate) to derive an assessment of \$14,680,000.

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 capitalization rate for the subject site?**

Complainant's Requested Value: \$ 12,420,000 (complaint form)
\$ 13,730,000 (disclosure)

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

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 five sales of comparable shopping centres that occurred during the 12 month period of January 2009 to December 2010. All five sales are well separated throughout 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'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 7.34% to 8.65%, with a mean of 7.91% and weighted mean of 7.74%.

The Respondent indicated that they're 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 confirmed at a value of \$14,680,000.

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.	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.*

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