

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:

Westfield Horizon Heights Ltd. (as represented by Fairtax Realty Advocates Inc.)
COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Krynski, PRESIDING OFFICER
H. Ang, BOARD MEMBER
J. Rankin, BOARD 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 2013 Assessment Roll as follows:

ROLL NUMBER:	031010911
LOCATION ADDRESS:	3508 32 Ave, NE
FILE NUMBER:	72021
ASSESSMENT:	19,130,000

This complaint was heard on 25 day of JUNE, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *No personal appearance made by Complainant*

Appeared on behalf of the Respondent:

- *G. Good*
- *C. Yee*

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

- [1] The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the Hearing, and the Board proceeded to hear the merits of the complaint.

Property Description:

- [2] The Subject Property is a "B" Class neighbourhood shopping centre, known as Horizon Heights Shopping Centre, located at 3508 32 Ave. NE. The improvements represent a total net rentable area of 75,959 square feet., in a number of separate freestanding buildings, constructed circa 1985, on a 6.08 acre parcel.

Issues:

- [3] The Complainant requested for a reduction in the rental rate for two distinct retail spaces, in the CRU 6,001 to 14,000 square foot Category.

Complainant's Requested Value: \$ 20,350,972

Board's Decision

- [4] The Board derives its authority to make a decision under Part 11 of the Municipal Government Act (the "Act").
- [5] On review and consideration of all the evidence before it in this matter, the Board found the Complainant's evidence was not sufficient to convince the Board that the Subject Assessment was in error.
- [6] The Board confirms the assessment at \$19,130,000

Legislative Authority, Requirements and Consideration

- [7] The Calgary Composite Assessment Review Board derives authority from the Municipal Government Act and associated Government of Alberta Legislation and Regulations.

Position of the Parties**Complainant's Position:**

- [8] The Complainant submits that, the typical market rent applied in the Subject assessment calculations for the category CRU 6,001 to 14,000 square feet, of \$18.00 per square foot (psf), is incorrect. They request a rate of \$17.00 psf for the 10,050 square foot space leased to Salvation Army, and \$12.00 psf for the 12,263 square foot space leased to Dollarama. These requested rental rates reflect the actual lease rates being paid by the respective two tenants. All other rental rates and Income Approach coefficients in the Subject's value calculations were deemed to be correct.
- [9] A rent roll for the Subject Property, dated July 1, 2012 was submitted as well as a Property Assessment Summary Report, and an Assessment Explanation Summary for the Subject Property. No further evidence was provided.

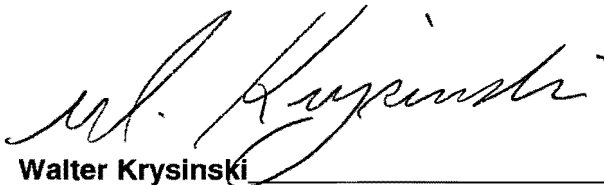
Respondent's Position:

- [10] The Respondent submitted photos, maps and aerial photos, etc., providing a visual description of the Subject Property, location, building placement, etc.
- [11] In support of the assessed \$18.00 market rental rate, the Respondent submitted a market lease comparison sheet for "B" Class Retail CRU's of 9 leases in the 6,001 to 14,000 square foot range, two of which are from the subject NE Quadrant of the City.
- [12] Further to this, the Respondent provided an equity chart, reflecting 7 equity comparables, of size 6,001 to 14,000 square foot spaces, indicating a similar assessed rental rate of \$18.00. All seven of the comparables are in the Subject NE Quadrant of the City, with similar type tenants.
- [13] Finally, the respondent noted that the actual lease comparables provided by the Complainant from the Subject rent roll, reflect dated leases that were signed in 2001 and 2002, and as such, were not reflective of current market. Furthermore, legislation directs the assessor to utilize current "typical" market data, within a mass appraisal process, in order to achieve the required fee simple valuation.

Board's Reasons for Decision:

- [14] There was insufficient market evidence to convince the Board that a variance to the assessment was justified. The two leases referenced in the Complainant's evidence were not current, dating back to 2001 and 2002. Furthermore, two leases from a subject property are a poor representation of typical market rents for the entire stratification of "B" Class Neighbourhood Shopping Centres.
- [15] The Board considered the Equity Comparables provided by the Respondent to be similar to the Subject, which lends support to the Respondent's position that the Subject Property is assessed in a manner that is consistent and equitable with other similar properties.
- [16] The Subject Assessment is confirmed at 19,130,000

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.



Walter Krynski

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.*

FOR ADMINISTRATIVE USE

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Commercial Retail	Neighbourhood Shopping Centre	Retail Rental Rate	