



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 Southwood Corner 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:	129052197
LOCATION ADDRESS:	10233 Elbow Drive SW
FILE NUMBER:	72048
ASSESSMENT:	30,190,000

This complaint was heard on the 25th 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 Southwood Corner, located at 10233 Elbow Drive, SW. The improvements, represent a total Net Rentable Area of 112,335 square feet., in a number of separate freestanding buildings, constructed circa 1964 and 1992, and situated on a 17.22 acre parcel.

Issues:

- [3] **Issue #1:** Should the space occupied by Giant Tiger, totalling 18,831 square feet, be afforded a typical vacancy rate of 7.5% ?
- [4] **Issue #2** Should the Big Box spaces for Giant Tiger (18,831 square feet) and Fabricland (14,694 square feet), be afforded an assessed rate based on their actual lease rates?

Complainant's Requested Value: \$ 28,283,096

Board's Decision

- [5] The Board derives its authority to make a decision under Part 11 of the Municipal Government Act (the "Act").
- [6] 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 is in error.

- [7] The Board confirms the assessment at \$30,190,000

Legislative Authority, Requirements and Consideration

- [8] 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:

Issue #1

- [9] The Complainant submits that the tenant Giant Tiger is not a typical "anchor" tenant, and as such, should be afforded a vacancy rate of 7.5%, similar to other CRU's for this class and type of property, rather than the 1% vacancy rate applied to anchor tenants.
- [10] In support of their position, the Complainant has submitted no evidence to suggest that Giant Tiger would not typically be considered by the industry as an anchor tenant. A rent roll for the subject property was included in evidence, however, there was no information that would define the tenant as being an anchor, or not.

Issue #2

- [11] The Complainant is requesting the assessed Rent rates for the large "big box" spaces for Giant Tiger and Fabricland to be equal to their current actual rental rates, as opposed to the typical rates as determined by the City.
- [12] Complainant's Evidence in this respect came in the form of the Subject Property Rent Roll. Rents for the two spaces in question were identified as:

Fabricland : 14,694 sf @ \$12.00 psf ; Lease commencement September, 2009

Giant Tiger: 18,831 sf @ \$11.00 psf; Lease commencement September, 2010

Respondent's Position:**Issue #1**

- [13] The Respondent submitted photos, maps and aerial photos, etc., providing a visual description of the Subject Property, location, bldg. placement, etc.
- [14] The Respondent maintains that the large spaces and nature of tenancies for the two tenants in question, lend themselves to what Industry would typically classify as "anchor tenants". Also in evidence, was a 2013 "Retail Vacancy Analysis Summary", which typifies "Big Box" retail as being larger than 14,000 square feet, with an indicated typical vacancy rate of 1%.

Issue #2

- [15] The City maintains that rental rate analyses are performed for similarly stratified properties, to determine "typical market" rental rates, thereby achieving mandated "Fee Simple" valuations. To simply apply actual lease rates in the valuation process would be contrary to legislated/regulated standards.
- [16] To this end, the City has included in their evidence package, a summary of their analysis, entitled "2013 Box Store Rental Rate Analysis (14,001 sf to 40,000 sf)". The analysis contains 20 leases ranging in size from 15,868 square feet to 32,702 square feet, with lease commencement dates from January 2010, to October 2011. The Giant Tiger lease within the Subject Property is included in the analysis. The median lease rental rate is indicated as \$15.75, the mean being \$17.69, with a resulting assessed value indicated to be \$15.00.
- [17] The respondent noted that, of the two actual lease comparables provided by the Complainant, from the Subject rent roll, only one of the leases fell within the acceptable time frame for analysis, and it was included in the City Analysis. The other lease was too dated (2009), and as such, was not reflective of current market.
- [18] Finally, the Respondent referenced a number of previous Board decisions, wherein the Boards upheld the City's position of calculating assessments based on typical market rents, as opposed to actual in-place lease rental rates.

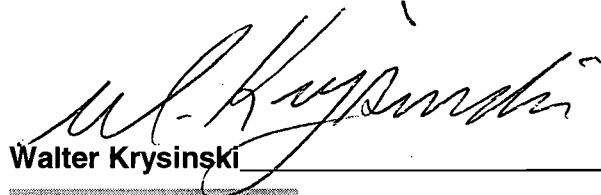
Board's Reasons for Decision:**Issue #1**

- [19] The Board was not convinced by the Complainant that the referenced tenancies Giant Tiger and Fabricland should not be considered to be "Anchor Tenants", within the context of a Neighbourhood Shopping Centre. While the Complainant provided a personal opinion, without any supporting evidence, it was just that. In order to vary an assessment, the Board requires supporting evidence.
- [20] By contrast, the City's explanation of typical tenancy characteristics, and large net rentable areas for Anchor Tenants, along with the Vacancy Analysis is sufficient in convincing the Board that the classification of the two spaces in question, as "Anchor Tenants", is correct.

Issue #2

- [21] The Board was not swayed by the Complainant's argument, that the rental rate for the two anchor tenants should be reduced from \$15.00, to their actual in-place lease rates of \$12.00 and \$11.00. Firstly, the Fabricland lease was too dated (2009), to provide a meaningful reflection of current market rental value. The Giant Tiger lease was within the relevant analysis time frame, and was utilized, along with 19 other leases of similar space types, in the City's analyses. A single lease is not representative of market, and to accept that over an analysis of 20 leases would not fulfil the mandated "typical market" requirement. In summary, the Complainant did not provide sufficient market evidence for this Board to vary the assessment.
- [22] The Subject Assessment is confirmed at \$30,190,000

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	Rental Rate Vacancy rate	Definition of anchor tenant