

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:

**ANTHEM HERITAGE HILL LTD.
C/O ANTHEM PROPERTIES LTD.
(As represented by Altus Group)
COMPLAINANT**

and

THE CITY OF CALGARY, RESPONDENT

before:

**W. Krynski, PRESIDING OFFICER
J. Pratt, BOARD MEMBER
P. Pask, 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:	112136007
LOCATION ADDRESS:	8180 MacLeod Trail SE
FILE NUMBER:	72277
ASSESSMENT:	\$40,550,000

This complaint was heard on 28th day of August, 2013 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:

- *K. Fong*

Appeared on behalf of the Respondent:

- *H. Yau*
- *C. Yee*
- *J. Lepine*

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

- [1] There were no concerns from either party, respecting the panel representing the Board as constituted.
- [2] Both parties requested that all capitalization rate (cap. rate) evidence and argument presented at Hearing #72410 be cross-referenced to the following Hearings: 72243; 72277; 72352; 72371; 72389; 72392; 72402; 72404; 72975; 73127; 73134. The Board concurred.
- [3] Both parties requested that all B quality Grocery Store evidence and argument presented at Hearing #72975 be cross-referenced and carried forward to this Hearing. The Board concurred.
- [4] As no further jurisdictional or procedural matters were raised at the outset of the Hearing, the Board proceeded to hear the merits of the complaint.

Property Description:

- [5] The subject property comprises a B quality Neighbourhood Shopping Centre, known as Heritage Hill Plaza, located at 8180 MacLeod Tr. SE. Constructed in 1972, it is situated in the community of Fairview. Total net rentable area for the subject property is 172,962 square feet (sf). The improvements are situated on a 9.13 acre parcel of land which is zoned Commercial-Community 2.

Issues:

- [6] The Complainant addressed the following issues at the Hearing:
 - The assessed capitalization rate applied in the income approach to value calculations is incorrect at 7.0%, and should be increased to 7.5%.
 - Approximately 7,000 sf. of retail space is incorrectly allocated as CRU space, whereas it should be allocated as office space.
 - The assessed CRU rate (6,001 – 14,000sf) is incorrect at \$22.00. The rate should be lowered to \$15.00.
 - The \$18.00 assessed rental rate for B quality Retail Office is incorrect. The rate should be lowered to \$15.00.

Complainant's Requested Value: \$34,430,000.

Board's Decision

- [7] The complaint is allowed in part, and the Board reduces the assessment to \$37,880,000.

Legislative Authority, Requirements and Consideration

- [8] The Act, Section 460.1(2), subject to Section 460(11), specifies a Composite Assessment Review Board has jurisdiction to hear complaints about any matter referred to in Section 460(5) that is shown on an assessment notice for property, other than property referred to in Subsection 460(1)(a).

Position of the Parties

Issue 1: Capitalization Rate

Complainant's Position:

- [9] The Complainant is arguing that the Capitalization rate of 7.0% results in assessments that are not reflective of market value as at July 1, 2012. Altus is requesting that the capitalization rate for neighbourhood shopping centres be changed to 7.5%.
- [10] In support of this position, the Complainant has provided two distinct methodologies of capitalization rate analyses. Capitalization rate Method I utilizes the application of assessed income as determined by the City of Calgary, while capitalization rate Method II calculates typical market income in a manner purported to be prescribed by the Alberta Assessor's Valuation Guide (AAVG) and the "Principles of Assessment" training program. Method I was indicated by the Complainant as the method utilized by the City in its analysis.
- [11] The Complainant provided 2 capitalization rate analysis charts of sales that occurred in the period January 19, 2011 through March 3, 2012 [C-1, pg. 95]. The sales respecting analysis Method I and Method II are summarized below:

2013 NBHD-Community Shopping Centre Analysis - Method I							
S/C Name	Address	Sale Date	Area	Rate	N.O.I.	Sale Price	C/R
Chinook Station	6550 Macleod Tr. SE	3/12/2003	7,182	42.00	271,921	\$4,250,000	6.40%
Southview Plaza	3301 17 Ave. SE	12/11/1930	30,375	10.71	305,510	\$2,700,000	11.32%
MacLeod Tr. Plaza	180 94 Ave SE	8/11/2018	123,766	19.90	2,318,302	\$33,750,000	6.87%
Pacific Plaza Mall	999 36 St. NE	8/11/2027	188,537	17.96	3,078,515	\$44,000,000	7.00%
Sunridge Sears Centre	3320 Sunridge wy. NE	1/11/2019	60,514	14.41	825,181	\$12,600,000	6.55%
						Mean:	7.63%
						Median:	6.87%

2013 NBHD-Community Shopping Centre Analysis - Method II							
S/C Name	Address	Sale Date	Area	Rate	N.O.I.	Sale Price	C/R
Chinook Station	6550 Macleod Tr. SE	03-03-12	7,182	60.71	410,717	\$4,250,000	9.66%
Southview Plaza	3301 17 Ave. SE	30-12-11	30,375	9.73	277,878	\$2,700,000	10.29%
MacLeod Tr. Plaza	180 94 Ave SE	18-08-11	123,766	18.31	2,128,680	\$33,750,000	6.31%
Pacific Plaza Mall	999 36 St. NE	27-05-11	189,176	19.43	3,355,812	\$44,000,000	7.63%
Sunridge Sears Centre	3320 Sunridge wy. NE	19-01-11	60,514	16.33	932,845	\$12,600,000	7.40%
						Median:	7.63%
						Weighted Mean:	7.30%

- [12] It was noted that both Methods I and II incorporated the three sales from the City Analysis: Macleod Trail Plaza, Pacific Plaza Mall and Sunridge Sears Centre. Chinook Station and Southview Plaza were not included in the City analysis.
- [13] The Complainant summarized that method I reflected a mean cap. rate of 7.63% and a median cap. rate of 6.87%, while method II yielded median cap. rate of 7.63% and a weighted mean cap. rate of 7.32%.
- [14] Further to this, the Complainant provided two charts, each titled "2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I" [C-1; Pg. 89]. It was noted that the second chart contained the additional sales that were utilized to determine the cap rate for the 2012 taxation year. Considering all the sales together, the mean cap rate is calculated as 7.84%, while the median cap rate was indicated to be 7.63%.
- [15] Repeating the same exercise for cap rate method II [C-1, pg.91], yielded a median of 7.76% and a weighted mean of 7.53%.
- [16] Additionally, documents identified as exhibits C-2 through C-7 were submitted in support of the capitalization rate argument.

- [17] Based on all the foregoing, the Complainant submits that a 7.5% capitalization rate results in a better market value assessment.

Respondent's Position:

- [18] The Respondent provided a document (R-1) in support of the current assessment.
- [19] In addition to various maps, photos, etc. of the subject property, Property Detail Reports and Assessment Explanation Supplements were provided for the subject property, as well as for the three sales utilized by the City.
- [20] The Respondent provided an analysis chart titled "2013 Neighbourhood, Community Centre Capitalization Rate Summary" [R-1, Pg. 49]. The summary is replicated below:

2013 Neighbourhood, Community Centre Capitalization Rate Summary						
S/C Name	Address	Sale Date	Area	N.O.I.	Sale Price	C/R
Sunridge Sears Centre	3320 Sunridge wy. NE	2011-01-19	60,514	825,181	\$12,600,000	6.55%
Pacific Place Mall	999 36 St. NE	2011-05-27	188,537	3,078,516	\$44,000,000	7.00%
MacLeod Tr. Plaza	180 94 Ave SE	2011-08-18	123,766	2,318,301	\$33,750,000	6.87%
					Median	6.87%
					Average	6.80%
					Assessed	7.00%

- [21] The Respondent noted that the three sales listed above were also included in the Complainant's analysis. It was noted that the sales are reasonably current, (January 2011 to August 2011), and reflect median and average cap rates of 6.87% and 6.80% respectively, which support the assessed 7.0% cap rate.
- [22] Additionally, the Respondent referenced the section "Review of Altus' Capitalization Rate 1 and 2" [R-1; Pgs. 57-218], providing supporting documentation to their sales, as well as their argument that the two additional sales utilized by the Complainant were not representative of typical neighbourhood shopping centres, and consequently, should not be utilized in the capitalization rate analysis.
- [23] The Respondent argued that the Altus method II cap rate calculations are predicated on an outdated (1999) version of the AA AVG manual. They advise that a more current (2012) version of the manual now exists.
- [24] Finally, in support of their position and assessment market level accuracy, the Respondent submitted a summary chart titled "2013 Neighbourhood/Community Shopping Centre ASR Test Complaint Methodology" [R-1; Pg. 230]. The Assessment to Sale Ratio (ASR) analysis included ASR results respecting the three common sales, as

well as the two additional sales included in the Altus evidence. Results were tabulated for the sales predicated on assessments as they currently stand, as well as for both of Altus's Methods I & II. Current assessments with a 7% cap rate yielded average and median ASR's of 0.975 and 0.967 respectively. Altus Method I predicated on a 7.5% cap rate, indicated average and median ASR's of 1.138 and 0.915 respectively, while Method II, with a 7.5% cap rate, yielded average and median ASR's of 1.168 and 1.139 respectively. Based on the ASR results, the City argues that the cap rate change proposed by Altus does not provide superior market-related assessments.

Board's Reasons for Decision:

- [25] There was insufficient market evidence from the Complainant to convince the Board that a variance to the capitalization rate is justified.
- [26] The Board has some concerns with the Complainant's reference to the outdated version of the AAVG. Notwithstanding this, the Board notes that the AAVG is merely a guide for assessors. It is neither regulated nor legislated, and as such, it has no legal bearing.
- [27] The Board reviewed in depth the additional two sales put forward by the Complainant, and is of the opinion that neither of the two sales are representative of typical Neighbourhood/Community Shopping Centre sales.
- [28] The sale at 6550 MacLeod Trail SW (Chinook Station) was indicated to be a vacant land sale. The evidence was unclear as to whether or not the forthcoming improvement was actually included in the sale price. The sale should be excluded from the analysis.
- [29] The sale at 3301 17 Ave. SE and 1819 33 St. SE, (Southview Plaza) was shown to be two separate sales, from the same vendor to two different purchasers. Additionally, the anchor store was 100% vacant, while the CRU spaces were 40% vacant. From an economic perspective, this sale was not reflective of conditions inherent in the sale of a typical shopping centre and should not be included in the analysis.
- [30] The Board cannot overemphasize the importance of utilizing sales of truly comparable properties in Capitalization Rate Studies. To do otherwise puts into question the accuracy of the ensuing results.
- [31] In order for this Board to vary the assessed capitalization rate, it is crucial that the Complainant provide market evidence that the proposed changes result in a better or more accurate assessment. The only market evidence in this regard was put forward by the City in the form of an ASR analysis. The results clearly showed that the Altus requested cap rate change resulted in assessments more varied, and distanced from indicated market levels.
- [32] In the final analysis, the Complainant did not satisfy the "burden of proof" requirement to convince the Board that a variance in the capitalization rate was warranted. While the City's evidence was less than ideal (from a quantity of sales perspective), the three sales provided support to the assessed 7.0% capitalization rate. The ASR's provided a mean/median of 0.975 and 0.967, while the mean/median utilizing the requested 7.5% capitalization rate reflect mean/median ASR's of 1.138/0.915 and 1.168/1.139, for Altus Methods I & II. The City's assessed average/median ASR's are within the mandated range.

Issue 2: Allocation of Retail Space**Complainant's Position:**

- [33] Approximately 7,000 sf. of retail space in the professional building is incorrectly allocated as CRU space, whereas it should be allocated as office space.
- [34] In support of this position, the Complainant has provided a rent roll for the subject property [C-1; Pg. 31]. It was noted that a number of main floor tenants were offices, and as this particular building is somewhat removed from the others on the site, it does not lend itself to main floor retail. The main floor space should be assessed as office, with the corresponding office valuation coefficients.

Respondent's Position:

- [35] The Respondent explained that the building in question is part of a neighbourhood shopping centre, and as such, is not assessed as an office building. Additionally, it was pointed out that a number of the main floor tenants were in fact retail in nature, and all main floor space in a neighbourhood centre is assessed at a retail rate, regardless of the use. Furthermore, it was argued that main floor spaces typically command a higher rent.

Board's Reasons for Decision:

- [36] The Board reviewed the evidence pertinent to this issue, and did not find the Complainant's evidence to be persuasive. In reviewing the rent roll, it was noted that a number of main floor leases were in fact retail tenants. The evidence is not sufficient to vary the space allocation.

Issue 3: Rental Rate : CRU 6,001 – 14,000 sf.**Complainant's Position:**

- [37] The Complainant is of the opinion that the current assessed rental rate of \$22.00 is incorrect. The correct rate should be \$15.00. However, the Complainant is prepared to accept the city's recommended rate of \$18.00

Respondent's Position:

- [38] The Respondent recommends that in this particular instance, the specified CRU rate should be reduced from \$22.00 to \$18.00.

Board's Reasons for Decision:

- [39] The Board accepts the Respondent's recommendation and sets the assessed CRU rate 6,001 – 14,000 sf. at \$18.00.
- [40] On review and consideration of all the evidence before it in these issues, the Board finds that there was insufficient evidence to vary the assessment with respect to Issue 1: Capitalization rate. Similarly, with respect to Issue 2: Grocery store rental rate, the Board finds that there was insufficient evidence to vary the assessment. Respecting Issue 3: CRU Rate, 6,001 – 14,000 sf., the Board reduces the rate to \$18.00.

Issue 4: Retail Office Rental Rate**Complainant's Position:**

- [41] The Complainant is of the opinion that the current assessed office rental rate of \$18.00 is incorrect. The correct rate should be \$15.00. An analysis was presented titled "2013 City of Calgary Retail Office Leases" [C-1; Pgs. 55-58] showing various scenarios considering benchmark commencement dates going back 12 months, 24 months and 30 months. Results for the various scenarios ranged from approximately \$14.00 to \$17.00, with most means, medians and weighted means in the \$14.00 to \$15.00 range.

Respondent's Position:

- [42] The Respondent referenced a chart titled "2013 Retail Office Leases" [R-1; Pgs. 234-236] consisting of 144 leases of classes A+ through C- with varying commencement dates, ranging up to 30 months prior to July 1, 2012 valuation date. Included in the array were 11 leases from the subject property, ranging from \$13.00 to \$19.00 psf.

Board's Reasons for Decision:

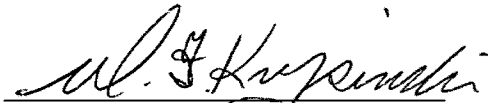
- [43] The Board finds the Complainant's evidence sufficiently compelling to warrant a reduction in the B quality retail office rental rate. The Respondent provided no explanation as to how the \$18.00 assessed rate was derived from the 144 leases. Furthermore, upon reviewing the 11 leases in the subject property, it was noted that the respective mean and median values were \$15.32 and \$15.00. As the Board could not find any support in the Respondent's evidence for the \$18.00 assessed rate, the Complainant's \$15.00 requested rate is accepted.
- [44] On review and consideration of all the evidence before it in these issues, the Board finds that, with respect to:
- **Issue 1: Capitalization Rate:** There was insufficient evidence to vary the assessment.
 - **Issue 2: Space Allocation:** There was insufficient evidence to vary the assessment.
 - **Issue 3: CRU Rate 6,001 to 14,000 sf.:** The Board reduces the assessed rental rate to \$18.00.
 - **Issue 4: Retail Office Rental Rate:** the Board reduces the assessed rental rate from \$18.00 to \$15.00.

- [45] The Assessment is reduced to **\$37,880,000.**

DATED AT THE CITY OF CALGARY THIS

4th

DAY OF October 2013.



Walter F. 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
3. C2	Complainant 2013 Cap Rate=Community/Neighbourhood Appendix (Part I)
4. C3	Complainant 2013 Cap Rate=Community/Neighbourhood Appendix (Part II)
5. C4	Complainant Shopping Centre- -2013 Cap Rate (Part I)
6. C5	Complainant Shopping Centre- -2013 Cap Rate (Part II)
7. C6	Complainant 2013 ARB reference Appendix
8. C7	Complainant 2013 ARB Cap Rate Rebuttal Appendix

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	Retail	Neighbourhood/Community Shopping Centre	<ul style="list-style-type: none"> • Capitalization Rate • CRU Rate • Space Allocation • Office Rental Rate 	