

**Calgary Assessment Review Board****DECISION WITH REASONS**

In the matter of a preliminary decision related to 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:

***Beltline Real Estate Holdings Ltd. (as represented by Altus Group), COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***I. Weleschuk, PRESIDING OFFICER  
H. Ang, BOARD MEMBER  
A. Huskinson, 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:

<b>ROLL NUMBER:</b>	<b>067092007</b>
<b>LOCATION ADDRESS:</b>	<b>838 11 AV SW</b>
<b>FILE NUMBER:</b>	<b>72377</b>
<b>ASSESSMENT:</b>	<b>\$6,970,000</b>

The Complaint was heard on the 16<sup>th</sup> day of October, 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:

- *A. Izard*

Appeared on behalf of the Respondent:

- *C. Fox*
- *M. Byrne*

**Procedural or Jurisdictional Matters:**

[1] Neither party objected to the Panel constituted to hear this matter and make a decision on the assessment.

[2] Both parties requested that the evidence, questions, answers and argument related to the capitalization rate issue considered in Complaint File No. 72151 be carried forward to this hearing. This includes evidence packages referred to as Exhibits C2, C3 and C6. The Board agreed to carry forward the evidence and argument, and to maintain the reference to Exhibits C2, C3 and C6. The only new evidence presented by the Complainant is Exhibit C1, the evidence specific to this property and complaint. Exhibit R1 is similar to but not exactly the same as presented in File 72151, so is also unique to this complaint.

**Property Description:**

[3] The subject property is a two storey office/retail B quality building located in the Beltline District, and specifically in the BL4 sub-district, constructed in 1945. The 11,408 square foot (SF) main level is occupied by a restaurant and pub (retail), with the 11,486 SF second floor used as office. The office rental rate is \$15/SF with a vacancy rate of 8%, while the retail rental rate is \$23/SF with a vacancy rate of 9.5%. Operating costs are \$14/SF for the office space and \$12/SF for the retail. The non-recoverable rate assigned to all space components is 1%. The capitalization rate used is 5.25%. The 2013 assessment calculated using these rates is \$6,970,000.

**Issues:**

[4] The Complainant raised a number of issues, which the Board has distilled into the issue below. Issues not appearing were not in dispute at this hearing. Both parties addressed a number of topics, but only those topics that are germane to the issues and supported by evidence are discussed in this decision. All these issues relate to whether the 2013 Assessment is correct.

1. What is the correct capitalization rate for the subject B retail/office property?



**Complainant's Requested Value:** \$6,130,000

**Board's Decision:**

[5] The Board reduces the 2013 Assessment to \$6,130,000.

**Legislative Authority:**

[6] Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act, might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the Complaint may refer to various aspects of the assessment or calculation of the assessed value, and may be addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

[7] The Board notes that the words "fair" and "equitable" are not defined in the MGA or its Regulations. Equitable is defined in Black's Law Dictionary (Seventh Edition, West Group, St. Paul, Minnesota, 1999) as "just, conformable to principles of justice and right". For the purpose of this decision, the Board considers an assessment that reflects market value to be "fair and equitable" as the taxpayer is being assessed in accordance with the assessment standard.

**Issue 1: What is the correct capitalization rate for the subject property?**

**Complainant's Position**

[8] The Complainant presented a summary of the Altus 2013 Beltline 'B' Office Capitalization Rate Summary (page 36, Exhibit C1) consisting of four sales indicating a capitalization rate of 7%. Three of the sales are common to the sales data used in the City's B Office Capitalization Rate Study. The Complainant presented documents and argued that two of the properties used by the City in their study (605 11 Av SW and 809 10 Av SW) were part of a "portfolio" sale and should not be used. The Complainant presented documents and argued that its sale at 525 11 Av SW is a valid sale, as meets the definition of a market value transaction.

[9] The Complainant presented its 2013 Beltline Retail Capitalization Rate Summary (page 35, Exhibit C1) consisting of one AA Quality retail property, one A2 Quality retail property and two B Quality retail properties to support a rate of 6.00 for an AA quality retail building. The two B quality retail properties included in this analysis have a capitalization rate of 4.78% and 5.94%.

[10] Assessment to Sales Ratio (ASR) analysis were included in the capitalization rate tables presented by the Complainant to demonstrate the validity of their capitalization rate calculations.

[11] Based on this evidence, and because the subject is a mix of office and retail space, the Complainant requested a capitalization rate of 6%.

[12] In argument, the Complainant presented a number of previous Board decisions supporting the requested capitalization rate.

### **Respondent's Position**

[13] The Respondent presented a summary of the 2013 Beltline Office Capitalization Rate Study (page 25, Exhibit R1) with supporting documents. This study supports the 5.25% capitalization rate used to calculate the 2013 Assessments.

[14] The Respondent presented supporting documents and argued that the two properties located at 605 11 Av SW and 809 10 Av SW were purchased by the same party, a national retail trust, but that the City vetted the sales and understands that the indicated values on the transfer documents represent their respective market values. The sales were brokered transactions between two sophisticated parties with no indication that any premium or discount was applied to the sale price.

[15] The Respondent presented support documents and argued that the Complainant's sale at 525 11 Av SW was purchased for redevelopment, not its income stream, therefore was not a good indicator of capitalization rate (indicative of an income producing property).

[16] The Respondent argued that the sale properties included in the Altus Beltline Retail Capitalization Rate Analysis were not comparable to the subject for a number of reasons, and that this analysis not be considered by the Board.

[17] The Respondent presented Assessment to Sales Ratio (ASR) analysis (page 163, R1) to support the validity of its capitalization rate analysis.

### **Board Findings on this Issue**

[18] The Board acknowledges that the subject property is somewhat unique, and that there are no good comparable sales available to indicate a capitalization rate. Both parties relied on capitalization rates derived from various building types. The Respondent relied on the Beltline B Quality Office Capitalization Rate study as the basis for its capitalization rate, and applied the calculated rate of 5.25% to prepare the 2013 assessment.



[19] The range of capitalization rates for the five B quality office sales used by the Respondent is 3.63-6.53%. The range of capitalization rates for the four B quality office sales used by the Complainant is 4.61-9.39. The range of capitalization rates for the three B quality office sales common to both analysis is 4.61-7.39% (Complainant) or 4.80-6.53% (Respondent). This difference in capitalization rates using the same sales information demonstrates the sensitivity of the resulting capitalization rate to the input data.

[20] The Complainant presented a Beltline Retail Capitalization Rate analysis with a range of 4.78-7.61%. The Respondent argued that the sales used by the Complainant in their retail capitalization rate study were not comparable properties to the subject. All four sales in the analysis consist of retail properties with little to no office component, and properties that are not similar to the subject (year of construction, quality, size, etc.).

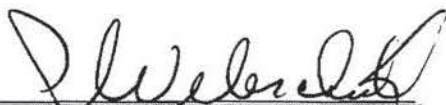
[21] Based on the capitalization rates presented, the Board finds that a capitalization rate of 6.00% is reflective of the subject mixed use property.

**Board's Decision:**

[22] The Board concludes that the correct capitalization rate is 6.00%. None of the other factors used in calculating the 2013 assessment were disputed. Applying these factors into the income approach calculation results in the 2013 Assessment of \$6,130,000.

The Board reduces the 2013 Assessment to \$6,130,000.

DATED AT THE CITY OF CALGARY THIS 19<sup>th</sup> DAY OF November 2013.



**Ivan Weleschuk**  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure – 2013 Beltline Retail Cap Analysis
3. C3	Complainant Disclosure – Evidence Appendix
4. C6	Complainant Disclosure – Rebuttal Submission
5. 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 MGB Administrative Use Only**

<b>Subject</b>	<b>Type</b>	<b>Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
CARB	Office/retail	Mixed use	Capitalization rate	Comparable Sales