

## **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:

***1457164 Alberta Ltd. (as represented by Altus Group Ltd.), COMPLAINANT***

and

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

before:

***B. Horrocks, PRESIDING OFFICER***

***P. McKenna, BOARD MEMBER***

***A. Zindler, 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>079037206</b>
<b>LOCATION ADDRESS:</b>	<b>2312 4 ST SW</b>
<b>FILE NUMBER:</b>	<b>72400</b>
<b>ASSESSMENT:</b>	<b>\$2,930,000</b>

This complaint was heard on the 7th day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6

Appeared on behalf of the Complainant:

- A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- R. Urban (City of Calgary)

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

- [1] There were no concerns with the board as constituted.
- [2] Both parties have visited the site.
- [3] The parties have not discussed the file.
- [4] There were no preliminary matters. The merit hearing proceeded.

**Property Description:**

- [5] The subject property is a 0.17 acre parcel located in the Mission community in SW Calgary. The site is improved with an 8,770 square foot (sf) retail strip centre that was constructed in 1965 and is considered to be B quality. The subject is assessed using the Income Approach to value with net operating income (NOI) capitalized at the rate of 5.25%.

**Issues:**

- [6] An "assessment amount" and "an assessment class" were identified on the Assessment Review Board Complaint Form as the matters that apply to the complaint. At the outset of the hearing, the Complainant advised that there was one outstanding issue, namely: "the assessed capitalization rate is incorrect and should be increased to 6.00%".

**Complainant's Requested Value:** \$2,120,000 (Complaint Form)  
\$2,560,000 (Hearing)

**Board's Decision:**

- [7] The 2013 assessment is confirmed at \$2,930,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000, Section 460.1:

- (2) Subject to section 460(11), 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 described in subsection(1)(a).

MGA requires that:

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that:

2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

4(1) The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

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

Issue: What is the capitalization (cap) rate to be used in the Income Approach to value, for assessment purposes?

**Complainant's Position:**

[8] The Complainant's Disclosure is labelled C-1.

[9] The Complainant, at page 20, provided a table titled, Altus 2013 Beltline Retail Capitalization Analysis. The table contains details of 4 sales that occurred in the period July 8, 2011 to July 3, 2012. The Complainant submitted that the sale of the "El Sombrero" should be excluded from the analysis because it was not an open market transaction. The Complainant reproduced the table with the sale of the "El Sombrero" removed, and noted of the 3 sales remaining, the average cap rate was 6.45% and the median cap rate was 5.94%, which supports the requested cap rate of 6.00%.

[10] The Complainant noted the assessment to sales ratio (ASR) ranged from 0.98 to 1.38, with an average of 1.17 and a median of 1.13. The Complainant submitted that, if the sales were analyzed using a 6.00% cap rate, the ASRs would range from 0.91 to 1.27 with an average of 1.06 and a median of 0.99, a superior result.

**Respondent's Position:**

[11] The Respondent's Disclosure is labelled R-1.

[12] The Respondent submitted that the sale of the Elbow River Casino should not be used in the analysis because it is not a typical retail building and is not comparable to the subject.

[13] The Respondent, at page 24, provided a table titled, 2013 Beltline Retail Capitalization Rate Summary. The table contains details of 3 sales that occurred in the period July 8, 2011 to May 23, 2012. The Respondent included the sale of El Sombrero and omitted the sale of the Elbow River Casino. The sales analysis produced cap rates of 5.81%, 4.77% and 5.89%. The Respondent noted the median cap rate for "all quality" classifications was 5.81%, while the median for the "B quality" classifications was 5.33%, which supports the assessed cap rate applied to the subject (B quality) of 5.25%.

**Complainant's Rebuttal Position:**

[14] The Complainant's Rebuttal Disclosure is labelled C-2.

[15] The Complainant submitted that the sale of El Sombrero, which is located at 520 17 AV SW, should not be included in the Respondent's analysis because it was not "brokered", as evidenced on page 3. In addition, on page 5, in an email dated June 21, 2013, the purchaser acknowledged it had paid much higher than market value, as the property would enhance its redevelopment potential.

[16] The Complainant, at page 2, provided the Respondent's table, noting that if the sale of El Sombrero were deleted, the median of the remaining 2 sales would be 5.85%. The Complainant submitted that "at the Very Minimum the Beltline retail cap rate should be 5.75%".

**Board's Reasons for Decision:**

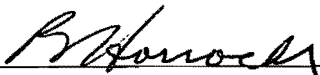
[17] The Board concurs with the Respondent that the sale of the Elbow River Casino should not be considered in the analysis, as it is not comparable to the subject.

[18] The Board finds the sale of El Sombrero can be used in the analysis. While the purchaser may have had the redevelopment potential as an additional motive, and may have paid more than market value, the purchaser did endorse the affidavit of value acknowledging that "the current value of the land, in my opinion is \$3,150,000". In addition, the purchaser stated "yes, the recent sale is an arm's length transaction".

[19] When the sale of the Elbow River Casino is removed from the analysis, the Board is left to consider the evidence of the Respondent on page 24 of R-1. The median of (B quality) classification sales is 5.33%, which supports the assessed rate of 5.25%.

[20] The cap rate to be utilized in the Income Approach to value, for assessment purposes, is confirmed at 5.25%. The 2013 assessment is confirmed at \$2,930,000.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF November 2013.



B. Horrocks

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. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

*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.*

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<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
Retail	Strip Plaza	Income Approach	Cap rate