



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:

THE TORONTO DOMINION BANK
(as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K Williams, PRESIDING OFFICER
J Mathias, MEMBER
A Maciag, 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: 175034008

LOCATION ADDRESS: 260 CROWFOOT CR NW

FILE NUMBER: 72531

ASSESSMENT: \$4,890,000

This complaint was heard on 9th day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- B Neeson Agent, Altus Group Ltd

Appeared on behalf of the Respondent:

- G Good Assessor, The City of Calgary
- N Sunderji Assessor, The City of Calgary

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

[1] The parties identified to the Board that the issue of the assessed capitalization rate (cap rate) applies to the subject property (File # 72531). Further the parties advised and agreed that the evidence and arguments in respect of the cap rate issue for the subject property will be the same as presented in respect of File #72411 for Property Roll #175036409 and requested that the evidence and arguments be carried forward to the subject property. It was accepted that the Board's findings and decision regarding the cap rate issue would therefore be common to the subject property. The Board found this to be an appropriate approach to the matters at hand.

[2] The parties identified to the Board that the evidence and arguments to be presented in respect of the hearing on the matter of the rental rate for the retail bank space for the subject property will be the same as presented in respect of File #72413 for Property Roll #016202202 and requested that the evidence and arguments be carried forward to the subject property. It was accepted that the Board's findings and decision regarding the rental rate issue would therefore be common to the subject property. The Board found this to be an appropriate approach to the matters at hand.

[3] The parties advised the Board that the area of the office space has been resolved and will not be identified as an issue. The requested value was amended by the Complainant at the hearing to reflect the agreement on the area of the office space.

[4] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[5] The subject property at 260 Crowfoot Cr NW is a 12,530 square foot (sq. ft.) building on 1.93 acres of land with a 1995 year of construction (yoc) assigned a B quality rating in the community of Arbour Lake with the Property Use: Commercial and Sub Property Use: CM1403 Retail – Shopping Centre – Power. The subject property is in the Power Shopping Centre known as Crowfoot Crossing. The subject property includes 6,000 sq. ft. office assessed at \$15.00 per square foot (psf) and a retail bank which occupies 6,530 sq. ft. and assessed at \$37.00 psf.

[6] The assessment was prepared on the income approach valuation with a capitalization rate of 6.25%.

Issues:

- [7] Should the current assessed capitalization rate (cap rate) be increased from 6.25% to 6.75% to better reflect market conditions?
- [8] Is the assessed rental rate for the retail bank space in excess of market and should be reduced from \$37.00 psf to no higher than \$33.50 psf.

Complainant's Requested Value: \$4,210,000

Board's Decision:

- [9] Based on the evidence and arguments presented the Board confirms both the cap rate of 6.25% and the rental rate of \$37.00 psf in the determination of the assessment.
- [10] The assessed rental rate for the office space was not contested and was accordingly confirmed.
- [11] The assessment of \$4,890,000 is confirmed.

Position of the Parties

[12] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[13] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the City of Calgary 2013 Property Assessment Summary Report, the City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the Rental Rate the evidence included a market analysis of leases (Bank Analysis) for comparable properties, supporting documentation for the comparables and a lease analysis for Power Centres. In support of the cap rate issue the Complainant submitted an Altus Group study titled Power Centre Retail 2013 Capitalization Rate Analysis & Argument (Altus Cap Rate Study), an analysis of a number of comparable properties, excerpts from applicable legislation, excerpts of technical information related to capitalization rate methodology, excerpts from the City of Calgary Capitalization Rate Approach, excerpts from the Alberta Assessor's Association Valuation Guide related to the method to determine the market rental rent and the Capitalization Rate calculation as well as a number of Assessment Review Board decisions in support of their position.

[14] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, the 2013 Property Assessment Notice, the Assessment Explanation Summary, a lease analysis (Bank Analysis) for comparable properties in Power Centres, a summary of bank equity comparables in Power Centres and a map identifying the location of the property. In regards to the matter of the cap rate the Respondent's evidence included a response to the Complainant's Cap Rate Study, relevant information related to the calculation of cap rates, an analysis of the cap rates for comparable properties as well as a number of Assessment Review Board and Municipal Government

Board decisions in support of their position.

[15] Both parties placed technical, professional and academic excerpts before the Board in support of their position. This Board finds that any specific passage or quote (i.e. excerpt) from a larger document may not capture the true intent of document and is, therefore, seen by the Board as incomplete material and may be given limited weight.

[16] As noted above both, parties placed a number of Assessment Review Board and Municipal Government Board decisions before this Board in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

Issue – Rental Rate

Complainant's Position:

[17] The Complainant's Exhibits C-1 and C-4 presented the evidence and arguments in support of the requested rental rate.

[18] On page 23 of Exhibit C-1 the Complainant presented a table titled 2013 Crowfoot Crossing Bank Analysis in support of the requested rental rate. All of the comparables are located in the Crowfoot Crossing Power Centre with their locations identified on map of Crowfoot Crossing on page 24 of Exhibit C-1.

[19] The lease analysis of the comparables on page 23 of Exhibit C-1 was completed on 11 variables which included; Civic Address, Tenant, Centre Type, Unit Type (Pad vs. CRU), Community, NRZ, Quality, Leased Area (SF), Start Date, Leased Rate and Term. The Complainant advised that the table on page 23 of Exhibit C-1 reported the lease rate for the comparable identified in the Tenant column, as the ATB, was reported as \$30.00 psf, however, following a review of the supporting documentation the Complainant determined that the correct lease rate for the ATB is \$34.00 psf. The Complainant advised the Board of the corrected mean and median.

[20] The supporting documentation for each of the comparables in the Complainant's table was presented on pages 24 to 50 of Exhibit C-1. The documentation included exterior photographs, a map of the centre identifying the location of the comparables, completed City of Calgary Annual Request for Information (ARFI) and selected pages from lease documents.

[21] The Board reviewed the Complainant's table and presents in the following table an analysis of the comparables with a focus on 7 variables.

2013 Crowfoot Crossing Bank Analysis

Tenant	Civic Address	Unit Type	Leased Area (sq. ft.)	Lease Rate psf	Lease Start Date*	Term
HSBC	95 Crowfoot Crossing NW	PAD	5,549	\$38.00	10-July-12	5
ATB	480 Crowfoot Crescent NW	PAD	4,640	\$34.00*	01-Aug -11	10
CIBC	70 Crowfoot Way NW	PAD	8,260	\$33.50	10-Sep -10	5
First Calgary	800 Crowfoot Way NW	PAD	5,578	\$31.50	1-Jan-09	5
Royal Bank	600 Crowfoot Crescent NW	CRU	5,230	\$32.00	16 -Nov-08	10
	Mean			\$33.80		
	Median			\$33.50		

*\$34.00 – For details on the basis for this rental rate refers to paragraph [16] above.

[22] Based on the above table the Complainant highlighted the following findings:

- 1) Unit type include 4 PAD and 1 CRU
- 2) Leased areas range from 4,640 to 8,260 sq. ft.
- 3) Lease Rates range from \$31.50 to \$38.00 psf.
- 4) Lease start dates range from Nov 2008 to July 2012
- 5) The mean lease rental rate was calculated to be \$33.80 psf and the median lease rental rate as \$33.50 psf

[23] The Complainant argued that it is an acceptable practice to use site-specific comparables from the same power centre as support for the rental rate rather than City-wide comparables. Also the use of leases outside of the 30 month period (January 2010 to July 1 2012) is acceptable.

[24] In summary the Complainant argued that the analysis of the Bank rental rates for the 5 comparables in the Crowfoot Crossing, the same location as the subject property, support the requested \$33.50psf rental rate.

Respondent's Position:

[25] The Assessor presented on page 102 of Exhibit R-1 a table prepared by City of Calgary Assessment titled 2013 Bank Lease Analysis: Power Centres. The table presented particulars on 9 comparables located in Power Centres across the City of Calgary. A review of the lease details presented in the table determined the comparables represented:

- 1) 3 quadrants of the City
- 2) 5 PAD and 4 CRU Unit Types
- 3) Leased areas ranging from 2,028 – 8,260 sq. ft.
- 4) Lease Start Dates between January 2010 and May 2011
- 5) Lease rental rates ranging from \$30.00 to \$41.00psf.

For this City wide sample the mean lease rate was \$37.39 psf and the median was \$37.50 psf

[26] The Respondent's table on page 103 and 104 titled Power Centre Bank Equity – Property reported data on 37 banks/financial institutions in all quadrants of the City with lease areas ranging from 1,674 to 10,637 sq. ft. which were all assessed a lease rate of \$37.00 psf.

[27] In summary the Respondent argued that the use of City wide data supports the use of \$37.00psf as the assessment rental rate.

Board's Reasons for Decision:

[28] Based on the evidence and the arguments presented the Board determined that the Complainant requested a rental rate of \$33.50 psf based on 5 comparables:

- 1) in respect of the lease commencement dates only 2 of the comparables were within the accepted 30 month period of January 2010 to July 2012, one was dated July 10, 2012 which is 10 days *post facto* but could be accepted because of proximity to the July 2012 cut-off date, however, the remaining 2

leases had commencement dates in 2008 and 2009. These are too dated to be relevant.

- 2) The three leases that were within the 30 months ranged from \$33.50 to \$38.00 psf and therefore were all at or above the requested rental rate of \$33.50 psf. The lease closest to the valuation date is at \$38.00 psf and supports the assessed \$37.00 psf rate. Further, the leases show evidence of an upward trend in rates from the \$33.50 psf in September 2010 to \$34.00 psf in August 2011 and finally \$38.00 psf in July 2012.

[29] The Respondent's table on page 102 of Exhibit R-1 presented 9 City wide comparables with lease dates in the 30 month period, a mean lease rate of \$37.39 psf which supports the \$37.00 psf rental rate. The Board supports the larger sample used by the Respondent which draws bank leases from five different power centres due to the similarity between bank space from one centre to the next.

[30] Based on the evidence and arguments presented the Board supports the use of the Rental Rate of \$37.00 psf in the determination of the assessment.

Issue – Capitalization Rate

Complainant's Position:

[31] The Complainant argued that the Capitalization Rate ("Cap Rate") of 6.25% applied to the 2013 assessment of Power Shopping Centres within the City of Calgary is low and not reflective of both market conditions as of the designated valuation date of July 2012, or reflective of the valid market transactions during the 30 month period of January 2010 to June 30 2012 prior to the valuation date. Based on the Complainant's methodology to calculate cap rate and a comprehensive analysis of valid market transactions, the cap rate should be 6.75%.

[32] The Complainant reviewed with the Board pages 19 and 20 of Exhibit C-1 which outlined the two methodologies (Capitalization Rate Methodology) for the determination of a cap rate.

[33] The method to determine the market rental rates which is the basis for the calculation of the Net Operating Income (NOI) is the fundamental difference between the two methodologies which are referred to as:

- Method I – used by the City of Calgary Assessment Business Unit which determines the Net Operating Income using the lease and income information reported by the annual Request for Assessment Information (ARFI).
- Method II – used by the Complainant which determines the valuation date market rent as prescribed by the Alberta Assessor's Association Valuation Guide (AAAVG) and Principles of Assessment I for Assessment Review Board Members and the Municipal Government Board Members.

[34] Page 20 of C-1 outlined the in further detail the Complainant's approach to determine the market rental rate which is presented below.

Determining Market Rents as of the Valuation Date

Base Rent

To establish the market value of a shopping center property the income calculation must be

based upon the appropriate market rents for the leasable areas. To determine the current market rent for each tenant, the following guidelines are provided (in order of descending importance):

1. For most tenants the best source of market rent information is the rent roll.

Using these rent rolls, the best evidence of "market" rents are (in order of descending importance):

- Actual leases signed on or around the valuation date.
 - Actual leases within the first three years of their term as of the valuation date.
 - Current rents for similar types of stores in the same shopping centre.
 - Older leases with active overage rent or step-up clauses.
2. As a secondary source of rent information, and as a check on the rents derived from the actual rent rolls, the rental rates can be compared to the rents established for similar types of stores in similar shopping centers. This information is reported in Schedule I.

[35] The cap rate for Power Shopping Centres was based on 3 transactions in Power Shopping Centres during the 30 month period from January 2010 to July 2012. The transactions are all located in the Crowfoot Crossing Centre. The profile of each of the 3 transactions is presented in the following table and was accepted as accurate by both parties.

Civic Address	Property Name*	Registration Date	Assessable Area	AYOC**	Quality
95 Crowfoot Cr NW	HSBC Bank	12/13/2010	7,256 sq. ft.	1997	B
20/60 Crowfoot Cr NW	Crowfoot - The Village	4/30/2012	60,612 sq. ft.	1985	B
140 Crowfoot Cr NW	Crowfoot Corner	5/28/2012	51,048sq ft.	1981-1991	B

*Property Name: the name by which the property is known and identified on maps of the Crowfoot Crossing Centre

**AYOC: approximate year of construction

[36] Complainant's Exhibit C-2 titled "Power Centre Retail 2013 Capitalization Rate Analysis & Argument detailed the argument, supporting analysis and documentation for the 6.75% cap rate. Pages 2 – 94 of C-2 presented the Capitalization Rate Method I used by the City of Calgary and based on assessed income from the year of sale.

The Complainant argued that the rental rate to determine the net operating income must be reflective of market at the valuation date. Pages 95 – 169 of C-2 outlines the methodology and comparables the Complainant used to determine the typical market rent rate for each of the transactions. In respect of each transaction the Complainant's position is summarized below:

- HSBC Bank: based on data presented in the Complainant determined that the use of either a \$37.50 or \$40.00 psf rental rate is reflective of market and not the \$32.00 psf rental rate used by the Respondent
- Crowfoot Village – based on the March 2012 Rent Roll for the subject and market data the Complainant calculated a typical market rental rate structure that is reflective of the Village's tenant stratification which should be the basis of the calculation of the Net Income. (C-2 page 156-159)
- Crowfoot Corner – based on the June 2012 Rent Roll for the subject and market data the

Complainant calculated a typical market rental rate structure that is reflective of the Village's tenant stratification which should be the basis of the calculation of the Net Income. (C-2 page 165-167)

[37] Based on the typical market rental rates the Complainant calculated the capitalization rate and presented the findings in the following table:

2013 Altus Power Centre Capitalization Rate Summary – Method II.

Civic Address Property Name	Registration Date	Sale Price	Assessable Area	NOI	CAP. RATE
95 Crowfoot Cr NW HSBC Bank	12/13/2010	\$2,638,00	7,256 sq. ft.	\$208,612	7.91%
20/60 Crowfoot Cr NW Crowfoot - The Village	4/30/2012	\$31,250,000	60,612 sq. ft.	\$2,107,266	6.74%
140 Crowfoot Cr NW Crowfoot Corner	5/28/2012	\$35,500,000	51,048sq ft.	1.892,009	5.33%

Legend: NOI = Net Operating Income; CAP. RATE = Capitalization Rate

Mean 6.66%
Median 6.74%

[38] Based on the evidence presented which uses the typical market rent to calculate the NOI the Complainant argued that the cap rate of 6.75% is supported.

Respondent's Position:

[39] The Respondent argued that the Capitalization Rate ("Cap Rate") of 6.25% applied to the 2012 assessment of Power Shopping Centres within the City of Calgary is reflective of market conditions as of the designated valuation date and as of the transaction date which is the basis on which a cap rate should be determined.

[40] The Respondent provided evidence in R-1 that supported the rental rates used to calculate the NOI for the 3 transactions. In respect of each transaction the Respondent's position is summarized below:

- HSBC Bank: Page 39 of R-1 presented the 2011 Historical Bank Lease Analysis for Crowfoot Power Centre which reported 3 comparables with a median and a mean of \$31.50 psf.
- Crowfoot - The Village and Crowfoot Corner: the Respondent presented an analysis of the ARFI for the property which support the calculation of the NOI based on the property rental rates.

[41] The Respondent argued that the rental rates are reflective of the property and the market as of the transaction date. Further, this approach to determine market rental rates is consistent with the Respondent's methodology.

[42] As further support for the cap rates the Respondent reviewed Page 89 – 93 of R-1 which are extracts from research reports on capitalization rates prepared by CBRE and Altus Insite. The reports show that the overall capitalization rates for 2012 power centres are in the range of 5.5% to 6.0%.

[43] The following table is a summary of the key data in the table titled 2103 Power Centre Capitalization Rate Summary on page 100 of R-1 which presents the Respondent's determination of the NOI and the cap rate.

Civic Address Property Name	Registration Date	Sale Price	Assessable Area	NOI	CAP. RATE
95 Crowfoot Cr NW HSBC Bank	12/13/2010	\$2,638,00	7,256 sq. ft.	\$167,560	6.35%
20/60 Crowfoot Cr NW Crowfoot - The Village	4/30/2012	\$31,250,000	60,612 sq. ft.	\$2,118,208	6.78%
140 Crowfoot Cr NW Crowfoot Corner	5/28/2012	\$35,500,000	51,048sq ft.	\$1,820,286	5.13%
Mean					6.09%
Median					6.35%

[44] In summary the Respondent argued that the NOI is based on market rental rates and the method to calculate the cap rate is reflective of accepted practice using the mean and median support the application of a 6.25% cap rate.

Board's Reasons for Decision:

[45] Based on a review of the evidence presented, the Board prepared the following table which presents the NOI and cap rates as calculated by the parties.

				Respondent		Complainant	
Civic Address Property Name	Registration Date	Sale Price	Assessable Area	NOI	CAP. RATE	NOI	CAP. RATE
95 Crowfoot Cr NW HSBC Bank	12/13/2010	\$2,638,00	7,256 sq. ft.	\$167,560	6.35%	\$208,612	7.91%
20/60 Crowfoot Cr NW Crowfoot - The Village	4/30/2012	\$31,250,000	60,612 sq. ft.	\$2,118,208	6.78%	\$2,107,266	6.74%
140 Crowfoot Cr NW Crowfoot Corner	5/28/2012	\$35,500,000	51,048sq ft.	\$1,820,286	5.13%	\$1,892,009	5.33%
Mean				6.09%		6.66%	
Median				6.35%		6.74%	

[46] The parties differed in the approach to determine the market rental rate which is the input to the calculation of the NOI. The difference in the determination of the market rent has the most impact on the NOI for 95 Crowfoot Cr NW which increases the cap rate by 1.56% compared to a .04% and a .20% increase in the cap rate for the other 2 transactions.

[47] An examination of the transactions determined the following:

- 1) from a statistical perspective a sample of 3 transaction is a small sample;
- 2) the 3 transactions have a total area of 118,916 sq. ft.;
- 3) 95 Crowfoot Cr NW is 7,256 sq. ft. which is 6.1% of the total sq. ft. and was a December 2010 transaction;
- 4) 20/60 and 140 Crowfoot Cr transactions represent 111,660 sq. ft. (93.9% of the total sq. ft.), were April and May 2012 transactions and were purchased by the same party;
- 5) 20/60 and 140 Crowfoot Cr transactions are within 3 months of the July 1 2012 valuation date and are more reflective of the current;
- 6) 20/60 and 140 Crowfoot Cr transactions potentially could be considered as one transaction and would be reflective of a market transaction in a Power Centre; and

- 7) both the Complainant and the Respondent used the mean and the median as measures of central tendency for a sample of 3 transactions.

[48] From a statistical perspective, sample size is an important consideration and will have an effect on the mean and the median by artificially inflating or deflating the calculated value. The calculation of a mean gives equal weight or importance to each data point in a sample.

[49] A statistically more appropriate method would be to use the weighted average.

[50] The Board is of the view that since the transaction for 95 Crowfoot Cr has an area of only 7,256 sq. ft. and was a 2010 transaction it is less reflective of the market than the two 2012 transactions which represent 93.9% of the combined area. This difference in area needs to be reflected in the calculation of the cap rate for the sample of 3 transactions.

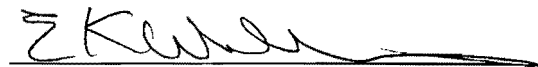
[51] To adjust for the sample size and to be reflective of the contribution of each transaction the Board calculated the weighted average of the 3 cap rates. Based on the methodologies argued by the parties the weighted average cap rates are:

Complainant: 6.14%

Respondent: 6.05%

[52] Based on the evidence and arguments presented, the calculation of a weighted average supports the application of a cap rate of 6.25% in the determination of the assessment.

DATED AT THE CITY OF CALGARY THIS 26 DAY OF September 2013.



Earl K Williams

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. C3	Complainant Disclosure
4. R1	Respondent Disclosure
5. R2	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

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	RETAIL	POWER CENTRE	INCOME APPROACH	CAPITALIZATION RATE