



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:

Canada Safeway Limited (as represented by Altus Group Ltd.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

B. Bickford, BOARD MEMBER

B. Jerchel, 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:	201197225
LOCATION ADDRESS:	850 SADDLETOWNE CIRCLE
FILE NUMBER:	72580
ASSESSMENT:	\$12,680,000

This complaint was heard on the 18th day of July, 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:

- B. Neeson (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- S. Turner (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 indicated they have visited the site.
- [3] The parties have discussed the file.
- [4] The parties requested that all evidence and arguments with respect to cap rate from Hearing 72718 and all evidence and arguments with respect to market net rental rate for "A" Quality grocery stores from Hearing 72515 be carried forward to this Hearing.

Property Description:

- [5] The subject property is a 4.10 acre separately titled parcel located in the Taradale community in NE Calgary. The parcel is improved with a 50,567 square foot (sq. ft.) Safeway supermarket. The Subproperty Use is CM0203 Retail – Shopping Centres – Neighbourhood. The improvement was constructed in 2008 and is considered to be 'A-' Quality. The subject is assessed utilizing the Income Approach to value.

Issues:

- [6] The Assessment Review Board Complaint Form identified "an assessment amount" and "an assessment class" as the Matters For a Complaint. In addition, the Complaint Form contained 5 Grounds for Appeal. At the outset of the hearing, the Complainant advised that there were two outstanding issues, namely: "the assessed capitalization rate is incorrect and should be increased to 7.5%" and "the assessed rental rate for "Supermarket" space at the subject should be no higher than \$15 psf".

Complainant's Requested Value: \$11,170,000 (Complaint Form)
\$9,850,000 (Hearing)

Board's Decision:

- [7] The assessment is reduced to \$10,560,000.

Legislative Authority, Requirements and Considerations:

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

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).

467(3) 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
- (b) The procedures set out in the regulations, and
- (c) The assessments of similar property or businesses in the same municipality.

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.

- (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

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

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

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

Issue 1: What is the cap rate to be applied in the Income Approach to value, for assessment purposes?

Complainant's Position:

[8] The Complainant's Disclosure is labelled C-1(72718).

[9] The Complainant, at page 34, provided two tables titled 2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I and 2012 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method II, noting Method I utilizes the application of assessed income as prepared by the City of Calgary ABU, while method II utilizes the application of typical market income as prescribed by the 'AAAVG' and 'Principles of Assessment'. Both tables include information on the same 5 sales which occurred during the period January 19, 2011 through March 3, 2012. The Complainant noted that Method I yielded a mean cap rate of 7.63% and a median cap rate of 6.87% while Method II yielded a median cap rate of 7.63% and a weighted mean cap rate of 7.30%. The Complainant acknowledged that Method I is utilized by the City in their analysis. The Complainant requested a cap rate of 7.50%.

[10] The Complainant, at page 56, provided two tables each titled 2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I noting the bottom table contained the addition of those sales that were utilized to determine the cap rate for the previous taxation year. When all of the sales are taken together, the mean cap rate is calculated to be 7.84% and the median cap rate is 7.63%.

[11] The Complainant, at page 58, repeated the same exercise utilizing cap rate Method II which resulted in a weighted mean of 7.53% and a median cap rate of 7.76%.

[12] The Complainant submitted additional documents labelled C2A, C2B, C3A, and C3B in support of its cap rate analysis.

Respondent's Position:

[13] The Respondent's Disclosure is labelled R-1(72718).

[14] The Respondent, at page 149, provided a table titled 2013 Neighbourhood, Community Centre Capitalization Rate Summary which contained details of 3 sales which occurred in the period January 19, 2011 to August 18, 2011, noting these 3 sales are common to both parties' analysis. The 3 sales have a median cap rate of 6.87% and an average cap rate of 6.80%, while the assessed cap rate is 7.00%.

[15] The Respondent, starting at page 14, provided supporting materials with respect to its argument that the 2 additional sales provided by the Complainant did not represent the sale of typical neighbourhood shopping centres and as a result should not be included in the cap rate analysis.

Complainant's Rebuttal Position:

[16] The Complainant's Rebuttal Disclosure, labelled C-6(72718), provided information to demonstrate that the City, in the preparation of other cap rate analysis, has been inconsistent with respect to its use of "non brokered" non listed sales and sales of unoccupied properties.

Board's Findings:

[17] The Board finds the two additional sales provided by the Complainant are not representative of typical neighbourhood shopping centre sales and should not be used in a cap rate analysis. The details provided for the sale at 6550 MacLeod Trail SW (Chinook Station BMO) were not clear as to what actually transacted. Was it a vacant land sale, a partially improved sale or an improved sale? The sales of 3301 17 AVE SE and 1819 33 ST SE (Southview Plaza) had the same vendor and two different purchasers. More importantly, the anchor property was 100% vacant and the CRU property was 40% vacant and as such it is not a typical scenario.

Issue 2: What is the net market rental rate for 'A' Quality grocery stores, for assessment purposes?

Complainant's Position:

[18] The Complainant's Disclosure is labelled C-1(72515).

[19] The Complainant, at page 29, provided a table titled Grocery Leasing Analysis "A= Prime/Good Location – Newer or Renovated Stores". The table contains information on 7 leases with lease start dates during the period 2009 to 2011. The lease rates range from \$8.40 to \$26.45/sq.ft., with a median lease rate of \$15.00/sq.ft. The Complainant requested a rate of \$15.00/sq.ft.

[20] The Complainant, at page 5(C-8)(72515), submitted a table titled 2013 Supermarket Rental Rate Analysis as prepared by the City of Calgary, noting there are 4 leases for 'A' Quality supermarkets. The lease rates range from \$8.40 to \$26.45/sq.ft. with a median lease rate of \$18.75/sq.ft., while the assessed lease rate is \$18.00/sq.ft.

[21] The Complainant, in comparing the information contained in the table on page 29(C-1) to the table on page 5(C-8) noted that there are 4 leases that are common recognizing that 1600 85 ST SW and 374 Aspen Glen Landing SW are the same property. The Complainant noted the lease rate for Aspen Landing is reported as \$18.50/sq.ft. in the City's table while it is reported as \$16.72/sq.ft. in the Complainant's evidence. The Complainant also noted the City has added the lease for 100 Anderson Road SE to their 'A' Quality Analysis Revised.

Respondent's Position:

[22] The Respondent's Disclosure is labelled R-1(72515).

[23] The Respondent, at page 327, submitted a table titled 2013 Supermarket Rental Rate Analysis Revised, noting there are 4 leases common to the Complainant's evidence and that 100 Anderson Road SE has been added to the analysis. In addition it acknowledged that the lease rate for 374 Aspen Glen Landing SW (\$18.50/sq.ft.) is reported as \$16.72/sq.ft. in the Complainant's evidence.

[24] The Respondent, at page 330, provided the Tenant rent roll for 70 Shawville BV SE, noting the lease start date is 1991. The Respondent submitted that lease should be excluded from the analysis because it is dated.

[25] The Respondent, at pages 331 through 341, provided information on the lease at 1221 Canyon Meadows Drive SE noting it is assessed at the rate of \$15.00/sq.ft. and should be included in the 'B' analysis and not in 'A'.

[26] The Respondent, at page 343, provided the Tenant Rent Roll for the lease in Aspen Landing noting the entire area of 53,916 sq. ft. is leased at the rate of \$18.50/sq.ft.

[27] The Respondent, at page 346, provided an excerpt from the Tenant Rent Roll for the lease at 9737 MacLeod Trail SW (Southland Crossing) showing the lease start date is May 15, 1989, and submitting it is dated and should not be used in the analysis.

[28] The Respondent, at page 349, provided an excerpt from the Tenant Rent Roll for 100 Anderson Road SE submitting it is a lease renewal at the rate of \$15.00/sq.ft. and has been included in its' analysis.

Board's Findings:

[29] With respect to 70 Shawville Blvd. SE, the Board finds that it is apparent from the rent rolls submitted for 2010 and 2011 (pages 16 & 17 of C-8) that something happened. There is a new rate and a new end date which would suggest a negotiation took place and the lease can be included in the analysis.

[30] With respect to 1221 Canyon Meadows Drive SE, the Board finds from the evidence submitted from both parties that the property is an 'A' Quality grocery store and can be included in the analysis. The Property assessment Summary Report (R-1, page 332) shows the grocery store as an 'A' Quality surrounded by other 'A' Quality improvements, and yet is assessed at the rate for 'B' Quality (\$15.00/sq.ft.). In addition the City has used the noted grocery store in its 'B' Quality analysis. The Complainant successfully argued that the physical characteristics of the grocery store meet the City's criteria used to define an 'A' Quality building.

[31] With respect to 1600 85 St. SW (Aspen Landing), the Board finds the rate to be used in the analysis is \$18.50/sq.ft. Both parties included the noted property in their analysis. However, the Respondent identified the rental rate as \$18.50/sq.ft while the Complainant utilized a rental rate of \$16.72/sq.ft. The Respondent, at page 343(R-1), provided the December 31, 2012 Rent Roll showing the rental rate of \$18.50/sq.ft. The Complainant, at page 34(C-8), provided the rent roll as of April 1, 2013 (beyond the assessment year), noting the "blended rate" is \$16.72/sq.ft. when the 5,186 sq.ft. of the property shown as paying \$0 rent is taken into consideration. No evidence was provided to explain the reason for a significant space receiving free rent.

[32] With respect to 9737 MacLeod Trail SW, the Board finds there is either an extension or renewal of a lease and therefore the lease can be used in the analysis. The Complainant, at page 44(C-8) provided an Assessment Request For Information (ARFI) return dated May 30, 2008 noting the lease start date was May 15, 1989. The Complainant on page 45(C-8) provided an excerpt from the Shopping Centre Lease Agreement noting the lease ends in 2009. The Complainant, at page 46(C-8) provided the Tenant Rent Roll as of July 01, 2010 noting the lease term is until May 14, 2014 and the annual rent is \$13.50/sq.ft. The Respondent, at pages 346 and 347(R-1), provided the 2011 and 2012 ARFI returns both noting the lease term ends May 14, 2014.

[33] With respect to 100 Anderson Road SE, the Complainant agreed the lease as included in the Respondent's Revised analysis could be used with a rental rate of \$15.00/sq.ft. The Respondent at pages 349 & 350(R-1), confirmed the rental rate to be the same (\$15.00/sq.ft.).

Board's Decision:

[34] There are now 8 leases that should be used in the 'A' analysis, as shown below:

Address	Shopping Centre	Area (sf)	Rental rate
3625 Shaganappi Trail NW	Market Mall	43,026	\$8.40
70 Shawville Blvd. SE	Shawnessy Village	51,978	\$10.47
1221 Canyon Meadows Drive SE	Deer Valley Marketplace	55,130	\$15.00
163 Quarry Park Blvd. SE	The Market at Quarry Park	45,358	\$26.45
356 Cranston Road SE	Cranston Market	41,334	\$19.00
1600 85 Street SW	Aspen Landing	53,916	\$18.50
9737 MacLeod Trail SW	Southland Crossing	45,505	\$13.50
100 Anderson Road SE	SouthCentre Mall	76,326	\$15.00

[35] The lease rates range from \$8.40 to \$26.45/sq.ft. The weighted mean lease rate is calculated to be \$15.69/sq.ft., the mean lease rate is \$15.79/sq.ft. and the median lease rate is \$15.00/sq.ft. The net market rental rate for 'A' Quality grocery stores is reduced to \$15.00/sq.ft.

[36] The cap rate is confirmed at 7.00%, after rejecting two of the Complainant's sales from the cap rate analysis. A review of the historical sales information also indicates a downward trend in cap rates. The market net rental rate for 'A' Quality grocery stores is reduced to \$15.00/sq.ft. Inserting the rental rate of \$15.00/sq.ft in the Income Approach to value calculation yields a net operating income (NOI) of \$739,365, which when capitalized at 7.00% results in a market value of \$10,562,362. The 2013 assessment is reduced to \$10,560,000.

DATED AT THE CITY OF CALGARY THIS 7th DAY OF August 2013.



B. Horrocks

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. C1,C2A,C2B,C3A,C3B,C4,C5,C6,C7	Complainant Disclosures (72718)
4. R1	Respondent Disclosure (72718)
5. C1,C8,C9	Complainant Disclosures (72515)
6. R1	Respondent Disclosure (72515)

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 Only

Property Type	Property Sub-Type	Issue	Sub-Issue
Retail	Neighbourhood Mall	Income approach	Cap rate & rent rate