

## **Calgary Assessment Review Board**

### **DECISION WITH REASONS**

In the matter of the complaints against the property assessments as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***First Capital Holdings (ALB) Corporation (as represented by Altus Group Limited),  
COMPLAINANT***

and

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

before:

***C. Duxbury, PRESIDING OFFICER  
T. Usselman, BOARD MEMBER  
B. Jerchel, BOARD MEMBER***

These are complaints to the Calgary Assessment Review Board in respect of property assessments prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

**ROLL NUMBER: 067188201**

**LOCATION ADDRESS: 880 16 Ave SW**

**FILE NUMBER: 72589**

**ASSESSMENT: \$33,870,000**

and

**ROLL NUMBER:** 067965780  
**LOCATION ADDRESS:** 1 1508 8 ST SW  
**FILE NUMBER:** 72716  
**ASSESSMENT:** \$7,010,000

These complaints were heard on the 22nd 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:

- *A. Izard*
- *K. Fong*

Appeared on behalf of the Respondent:

- *D. Satoor*

**Board's decision in respect of procedural or jurisdictional matters:**

[1] The parties had no objection to the panel representing the Board as constituted to hear these complaints. No jurisdictional matters were raised at the outset of the hearing.

[2] On a point of procedure, it was requested by both parties that the complaints regarding the properties detailed above be heard together. Both properties are owned by the Complainant and were sold as part of a single sale. The Board agreed to the parties' request and proceeded to hear the merits of the complaint.

**Property description:**

[3] The subject properties are known together as Mount Royal Village [C1, p.9]. They are situated in the Beltline District of the City's downtown core. Mount Royal Village Mall is an A2 quality retail building located at 880 16 Ave SW [C1, p.20]. The building has an assessed area of 96,272 square feet (sf) and the year of construction is 1978. It is situated on a 26,075 sf parcel of land. London Drugs is a condominium retail building in good condition located at 1 1508 8 ST SW [C1, p. 25]. The building has an assessed area of 22,114 sf and the year of construction is 2001. It is situated on a 31,557 sf parcel of land.

**Issues:**

[4] Does the current assessment of these properties reflect their market value as at July 1, 2012?

**Complainant's requested values:** \$22,520,000 for Roll # 067188201  
\$ 7,010,000 for Roll # 067965780

**Legislative authority, requirements and considerations:**

[5] The Board's authority is found in the *Municipal Government Act*, and the associated Government of Alberta legislation and regulations. Within this framework the following provisions of the Act were considered by the Board to be of particular relevance.

***Municipal Government Act***

*1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;*

*289(2) Each assessment must reflect*

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and*
- (b) the valuation and other standards set out in the regulations for that property.*

*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.*

*(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.*

*467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.*

*(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 (AR 220/2004)***

*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.*

*3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.*

*6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless subsection (2) or (3) applies.*

**Position of the parties:**

**Complainant's position**

[6] The Complainant advised that the subject properties sold December 14, 2011 for \$35,111,000 [C1, p. 91]. This market sale included both subject properties and 223 titled

parking stalls [C1, pp. 9 and 91]. The Complainant submitted that when you add up the current assessed value of \$33,870,000 for Mount Royal Village Mall [C1, p. 23], the current assessed value of \$7,010,000 for London Drugs [C1, p. 25], and the current assessed value of \$5,575,000 for the 223 titled parking stalls at \$25,000 per stall [C1, pp. 26-39], you get an overall assessed value of \$46,455,000 for Mount Royal Village. This overall assessment, the Complainant argues, is far in excess of the market value of a property that sold for \$35,111,000, and produces an assessment to sales ratio of 1.32 [C1, p. 18].

[7] The assessed value of \$5,575,000 for the 223 titled parking stalls at \$25,000 per stall was not in dispute at the hearing and the Complainant advised that no complaint was filed in relation to them. The Complainant further advised that they took no issue with the assessed value of \$7,010,000 for London Drugs, and requested that the Board confirm the assessment. The Complainant only appealed the London Drugs property because it was part of the December 14, 2011 sale.

[8] Regarding the Mount Royal Village Mall property; however, the Complainant requests a reduction in the assessed value on the basis that the best indicator of the market value of a property is the sale price garnered for that property on the open market. The Complainant argues that when you subtract the undisputed assessed value of the 223 parking stalls and the undisputed assessed value of London Drugs from the December 14, 2011 sale price of \$35,111,000, you get a value of \$22,526,000 for Mount Royal Village Mall. This translates into a requested assessed value for the Mount Royal Village Mall of \$22,520,000, as it is the City's practice to truncate values to the lowest \$10,000.

[9] In support of the Complainant's contention that the December 14, 2011 sale price is a good indicator of the value of the property, the Complainant provided a calculation of Mount Royal Village Mall's value using the income approach [C1, pp. 47]. This calculation produced a total valuation of \$22,327,371.21, albeit with rental rates that differed from the rental rates used by the City for all but one of the spaces identified. This calculation, the Complainant argued, produces a value that supports the sale price of Mount Royal Village Mall as being at market value.

### **Respondent's position**

[10] The Respondent was not prepared to concede the assessed value the Complainant requested for Mount Royal Village Mall, and did request confirmation of the City's assessment. The Respondent explained that two different models were used for assessing Mount Royal Village Mall and London Drugs. The Respondent further explained that the December 14, 2011 sale was not used in the City's assessment because it was difficult to determine how the sale price should be apportioned between the properties.

[11] The Respondent acknowledged that the December 14, 2011 sale of Mount Royal Village was an open market sale within the City's data collection period used to determine the assessments as at the valuation date of July 1, 2012. The Respondent did not take the Board through the City's Exhibit R1 in any detail, but advised the Board that the City took issue with the rental rates used by the Complainant in their calculation of Mount Royal Village Mall's value using the income approach.

### **Board's findings and reasons for decision:**


[12] Following Acton J.'s decision in *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB 512, at para. 24, this Board finds that a property's sale is the best indicator of the market value of that property. The subject properties, together with 223 titled parking stalls, sold on December 14, 2011 for \$35,111,000. December 14, 2011 is within the data collection period

used by the City to determine the assessment as at the valuation date of July 1, 2012. There was no dispute over whether the sale of Mount Royal Village was at market value. There was no dispute over the assessed value of the 223 titled parking stalls at \$25,000 per stall. There was no dispute over the assessed value of London Drugs at \$7,010,000. Subtracting the assessed value of the titled parking stalls and London Drugs from the market sale price of \$35,111,000 for Royal Mountain Village, results in a value for the Mount Royal Village Mall of \$22,526,000. For these reasons the Board finds that the December 14, 2011 market value sale supports an assessed value for Mount Royal Village Mall of \$22,520,000

**Board's decision:**

- [13] The Board reduces the assessment for Roll #067188201 to \$22,520,000.
- [14] The Board confirms the assessment for Roll # 067965780 at \$7,010,000.

DATED AT THE CITY OF CALGARY THIS <sup>th</sup>30 DAY OF September 2013.

  
Cathryn A. Duxbury

Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure – Evidence Submission
2. 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 ADMINISTRATIVE USE:

Appeal Type	Roll Number	Property Type	Property Sub-Type	Issue	Sub-Issue
Calgary CARB	067188201	Retail	Stand Alone	Income Approach	
Calgary CARB	067965780	Retail	Stand Alone		