

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:

West Holdings Ltd. (Represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

I. Weleschuk, PRESIDING OFFICER

H. Ang, BOARD MEMBER

T. Livermore, 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:	075173302
LOCATION ADDRESS:	4019 17 Avenue SE
FILE NUMBER:	72600
ASSESSMENT:	\$1,550,000

This complaint was heard on the 2nd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *M. Cameron*

Appeared on behalf of the Respondent:

- *G. Jones*

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

- [1] Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.
- [2] The Board noted that their file included a completed copy of the Assessment Review Board Complaint form and Assessment Complaints Agent Authorization form.
- [3] The Complainant Rebuttal was disclosed late (due June 24; received June 28) as a result of the Altus Group Limited (Altus) offices being closed for a number of days due to the flooding in downtown Calgary. The Respondent did not object to the Rebuttal being entered as evidence, given the circumstances.
- [4] No further preliminary issues were raised by either party.

Property Description:

- [5] The subject property is located at 4019 17 Avenue SE, also known as International Avenue in the Forest Lawn District. The property is a retail strip shopping centre built in 1972 on a 0.5 acre lot with a total of 9,318 square feet (SF) of leasable area. The building is located along the back of the property, with parking in the front. There is direct access and egress onto 17 Avenue SE. The building is divided into four bays, two of 969 SF (Commercial Retail Unit (CRU) <1000 SF), a bay of 3,165 SF and a bay of 4,215 SF (both larger bays in the CRU 2,501-6000 SF assessment category). The current assessment is \$1,550,000, using an Income Approach.

Issues:

- [6] Does the assessed value reflect the market value of the property? Specifically, are the rental rates used by the municipality in the Income Approach for the CRU space used to calculate the 2013 assessment reflective of the rents that can be achieved by the subject property? The Complainant requested that the rental rate for CRU <1000 SF be reduced from \$16.00/SF to \$12.50/SF and that the rental rate for the CRU 2,501-6,000 SF be reduced from \$14.00/SF to \$9.50/SF.

Complainant's Requested Value: \$1,070,000

Board's Decision:

- [7] The Board reduces the 2013 assessed value to \$1,270,000, based on a recalculation of the 2013 assessment, after changing the rental rates applied by the municipality for CRU <1000 SF and CRU 2,501-6,000 SF categories

Legislative Authority:

- [8] 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.

Issue 1: Does the assessed value reflect the market value of the subject property?

- [9] The only specific issue raised relates to the rental rates used in the Income Approach calculation used by the municipality to derive the 2013 assessment. The Complainant did not dispute the rental rate applied to the storage space, nor any of the other factors used by the municipality in its Income Approach calculation.

Complainant's Position:

- [10] The Complainant noted that the Income Approach used by the municipality is based on factors derived for commercial strip malls (centres) located across the SE quadrant of the City. The Complainant stated International Avenue was a unique portion of the quadrant, and inferior to the rest of the quadrant. The rental rates that can be achieved for retail properties along International Avenue are less than the typical market rates being achieved in the SE quadrant, as a whole (\$16.00/SF for CRU <1000 SF; \$14.00/SF for CRU 2,501-6000 SF). To demonstrate the difference, the Complainant presented a table of eight lease rates for CRU <1000 SF properties along International Avenue including two leases from the subject property (page 26, Exhibit C1), and two leases from the subject property showing the rental rates for CRU 2,501-6,000 SF (page 27, Exhibit C1).

- [11] To support the subject rental rates, the subject Assessment Request for Information (ARFI) dated February 26, 2013 was presented (page 29-30, Exhibit C1) and summarized in a table on page 28, Exhibit C1. All were relatively current leases, with two commencing in 2011 (March and June) and two commencing in 2010 (April and September). The Complainant stated that the lessees had no relationship to the owner of the property and that the leases reflected market rates for the area.
- [12] Based on an analysis of the lease comparables, the Complainant concluded that the appropriate rate for the CRU <1000 SF rate is \$12.50/SF. The eight comparable leases presented have a mean of \$10.64/SF, a range of \$5.00 to \$14.50/SF resulting in a median of \$12.69, and the two relevant leases from the subject property both at \$12.38/SF.
- [13] The Complainant concluded that the appropriate rental rate for the CRU 2,501-6,000 SF category is \$9.50/SF based on the two relevant leases from the subject property having a mean of \$9.43/SF, and range of \$7.68 to \$11.18/SF resulting in a median of \$9.43/SF.
- [14] As the Complainant did not have any evidence to dispute the other factors used in the Income Approach calculation used by the municipality to calculate its 2013 assessment, these other factors are not in dispute in this hearing.
- [15] Using the municipality's Income Approach Assessment Valuation calculation, but replacing the CRU <1000 SF and CRU 2,501-6,000 SF rates to \$12.50/SF and \$9.50/SF respectively, the requested assessment is \$1,070,000 (page 33, Exhibit C1).
- [16] To support this approach, the Complainant included in argument a copy of the 2012 Board decision on the subject property (CARB 2398-2012-P, page 35-39, Exhibit C1). The Board reduced the 2012 assessment, but not to the assessed value requested by the Complainant.
- [17] In rebuttal, the Complainant took the rental comparables presented by the Respondent for both CRU categories and eliminated all properties that were not located on International Avenue. This left nine rental comparables for the CRU <1000 category (eight of the same as presented by the Complainant on page 26, Exhibit C1 plus one additional comparable) with a mean of \$11.25 and range of \$5.00 to \$17.00/SF resulting in a median of \$12.69/SF (pages not numbered in Exhibit C2). Three rental comparables were not eliminated for the CRU 2,501-6,000 SF category (two presented on page 27, Exhibit C1 plus one other) with a mean of \$12.29/SF and a range of \$7.68 to \$18.00/SF resulting in a median of \$11.18/SF.
- [18] In rebuttal, the Complainant also addressed a number of errors or weaknesses in the rental comparable information presented by the Respondent for the two CRU categories.

Respondent's Position:

- [19] The Respondent stated that the subject is a commercial property, therefore the income approach is the most appropriate method to determine value, using mass appraisal. This ensures equitable assessments for all properties in that assessment class. For the retail shopping centre – strips category, there are not enough sales on International Avenue to allow the municipality to derive factors specific for this area. Because of the information available, the municipality does the assessment analysis for this category of property across the SE quadrant.
- [20] The Respondent presented a table of fourteen rental comparables for the CRU <1000 SF category (page 21, Exhibit R1) with lease dates between February 2010 and January 2012, which included the eight rental comparables presented by the Complainant. The median of the rental comparables was \$13.73/SF and the median was \$13.75/SF. This is only a subset of the rental comparables used in the analysis, which resulted in a rental rate for this size category of \$16.00/SF.
- [21] The Respondent presented a table of six rental comparables for the CRU 2,501-6,000 SF category (page 22, Exhibit R1) with lease dates between April 2010 and June 2012, which included both rental comparables presented by the Complainant. The median of these six rental comparables is \$14.56/SF and a median of \$14.59/SF. This is a subset of the rental comparables used in the analysis, which resulted in a rental rate for this size category of \$14.00/SF
- [22] The Respondent argued that the integrity of the Income Approach is compromised if you change one or two of the factors, using actual rates, when all the other factors in the calculation are typical or market rates. The methodology proposed by the Complainant to derive the requested assessment mixes two methods (actual and typical) and is therefore wrong.

Findings of the Board on this Issue:

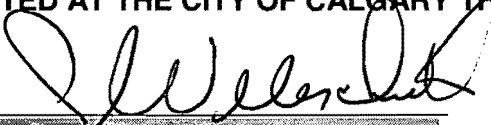
- [23] With regard to the CRU <1000 SF category, the Board notes that the Complainant's evidence (page 26, Exhibit C1) results in a mean of \$10.64/SF and a median of \$12.69/SF. Based on the median, the Complainant proposes a rental rate of \$12.50/SF. The Respondent's evidence (page 21, Exhibit R1) results in a mean of \$13.73/SF and median of \$13.75/SF, to support their rental rate of \$16.00/SF. The Board notes both these data sets include a \$5.00/SF rental rate for a 495 SF leased area located at 4909 17 Av SE. This rental rate is less than half the rate of the next lowest rental rate, at \$11.00/SF. While this may be a valid lease, the rate is clearly not reflective of the subject market. Relying on the table of ten rental comparables for this category presented in Exhibit C2 (pages in this Exhibit not numbered) which the Complainant apparently finds reflective of the International Avenue market area, and removing the \$5.00/SF rental rate, results in a mean of \$13.20/SF and a median of \$14.00/SF. The Board concludes that a rental rate of \$13.50/SF reflects the rental rate for CRU <1000 SF properties located along International Avenue.

- [24] With regard to the CRU 2,501-6,000 SF category, the Board notes that the only two rental comparables presented by the Complainant on page 27 Exhibit C1 are from the subject property and are used to support a requested rental rate for this category of \$9.50/SF. The Respondent presented six rental comparables including the two leases from the subject property to support their rental rate of \$14.00/SF. The Complainant presented a table with three rental comparable in Exhibit C2 (two from the subject and one lease from 1806 52 St SE) which was contended to represent the International Avenue market area. This table shows a mean of the three rental comparables of \$12.29/SF and a median of \$11.18/SF. The Board relies on this data and concludes that a rental rate of \$11.50/SF reflects the rental rate for CRU 2,501-6,000 SF properties located along International Avenue.
- [25] While the Board acknowledges the comments by the Respondent that mixing methodologies (actual and typical) affects the integrity of the Income Approach, the Board also acknowledges the comments of the Respondent and Complainant that there are no recent sales along International Avenue which would allow other factors to be derived. Therefore the Board will recalculate the assessment using the typical rates for the quadrant used by the municipality in its calculation, and substitute the rental rates for the CRU <1000 SF and CRU 2,501-6000 SF categories with typical rental rates it has derived from the data presented.
- [26] Applying a rental rate of \$13.50/SF for the CRU <1000 SF and a rental rate of \$11.50/SF for the CRU 2,501-6000 SF categories in the Non-Residential Properties-Income Approach Valuation form (page 13-14, Exhibit R1) results in a calculated assessment of \$1,274,044, truncated to \$1,270,000.

Board's Reasons for Its Decision

- [27] The Board concluded that based on the evidence presented, and specifically the evidence for properties located on International Avenue, the rates used by the municipality are not reflective of the rental market along International Avenue. That said, the rates requested by the Complainant were also not reflective of the rental market along International Avenue. The Board considered the rental comparables presented by both parties and concluded that a rental rate of \$13.50/SF is indicated for the CRU <1000 SF and a rental rate of \$11.50/SF is indicated for the CRU 2,501-6000 SF size categories.
- [28] Applying these rental rates into the Non-Residential Properties-Income Valuation form results in an assessment, as calculated by the Board, of \$1,270,000.

DATED AT THE CITY OF CALGARY THIS 31 DAY OF July 2013.


Ivan Weleschuk
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. C2	Complainant Rebuttal 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:

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Retail	Strip	Income	Rental rates