



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:

First Capital Holdings (ALB) Corporation, FCR Management Services (as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***T. Golden, PRESIDING OFFICER
R. Deschaine BOARD MEMBER
D. Julien 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: 123108102

LOCATION ADDRESS: 9110 Macleod Tr SE

FILE NUMBER: 72619

ASSESSMENT: \$14,670,000

This complaint was heard on 8 day of October, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *K. Fong, D. Main*

Appeared on behalf of the Respondent:

- *G. Jones*

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

There were no preliminary issues.

Property Description:

[1] The subject property is an A- quality retail strip mall constructed in 1987 and 1988 on a 3.8 acre site. The assessment was prepared using the Income Approach to valuation. The rental rates are in question in the complaint and all other inputs in the income calculation are not in dispute.

[2] **Issues**

Issue 1: In the commercial retail units (CRU) categories of; 1001 to 2500 sq. ft., and 2501 to 6000 sq. ft., has the correct rental rates been applied?

Issue 2: Is the rental rate applied to fast food outlet the appropriate rate?

Complainant's Requested Value: \$13,380,000

Board Decision The assessment is confirmed at **\$14,670,000**

Board Decision on Issue 1: In the CRU categories of; 1001 to 2500 sq. ft., and the 2501 to 6000 sq. ft., the correct rental rates have been applied.

Position of the Parties

Complainant's Position:

[3] With each of the tables of leases submitted in support of the various rental rate requests the Complainant used leases from retail strip malls in closer proximity and more similar to the subject than the Respondent's comparables. The Complainant focused on the rent rate for CRU units 1001 to 2500 sq. ft., and the 2501 to 6000 sq. ft. categories. In the Complainant's opinion the CRU 1001 to 2500 should be \$25.00 per sq. ft. rather than the assessed rate of \$28.00 per sq. ft. and the 2501 to 6000 sq. ft. rate should be \$22.00 per sq. ft. rather than the assessed rate of \$26.00.

[4] The first category, requested values are supported by a table of 15 leases (pg., 28 C-1). The table of A- strip malls has a mean of \$25.07 per sq. ft. and a median of \$25.00 per sq. ft.

[5] For the CRU sizes 2501 to 6000 sq. ft. a table of 6 rent rates (pg. 29 C-1) illustrates rates with a mean of \$23.08 per sq. ft. and a median of \$22.00 per sq. ft. The two requested rates used in the income calculation were used to arrive at the requested assessment.

[6] The rebuttal provided by the Complainant was largely intended to suggest to the Board that one factor can be changed in an income calculation and that the Board could choose to adjust the rental rates and leave all the other inputs the same.

[7] Although mentioned, but not in evidence the Complainant commented on the Respondent's assessment to sale ratio (ASR) test on the property at 4337 MacLeod Trail has a the ratio for the assessment is .9 and far outside the normally accepted range.

Respondent's Position

[8] The Respondent defended the assessment rental rates for CRU 1001 to 2500 sq. ft. category producing a table of lease rates (pg. 27 R-1) in which 4 additional leases were added that the Complainant had not used. With the inclusions the average rent rate is \$26.37 and a median of \$26.00 which is less than the assessed rate but greater than the requested value.

[9] The CRU category 2501 to 6000 sq. ft. the Respondent included two leases omitted by the Complainant. With the additions the average is \$24.83 per sq. ft. supporting the assessment.

[10] The Respondent suggested that if the rental rates change that the net operating income (NOI) changes in an income approach then the cap rate must change.

[11] The Complainant's requested assessment results in an ASR of 0.82 which is further away from the accepted ratio.

Board's Reasons for Decision on Issue 1:

[12] The Board finds that in both CRU categories that the Respondent's information is more complete and although the leases may be from a wider quadrant are more indicative of the market. The Complainant provided weak arguments regarding the exclusion of some leases. The Board has placed more weight on the Respondent's position. In particular in the case of the 1001 to 2500 CRU rental rates the Board finds that the Respondent's lease table presents a range of rents between \$19.00 per sq. ft. to 37.50 per sq. ft. which includes both the assessment and the requested rent rate. The Respondent's position is strengthened as the most recent leasing supports the assessed rent rate. Seven leases signed in 2012 have an

average rental rate of \$28.28 per sq. ft. and the assessed rate is \$28.00 per sq. ft.

[13] Similarly with the 2501 to 6000 sq. ft. CRU rates where the results of the Respondent's lease evidence has a range between \$15.00 per sq. ft. and \$32.00 per sq. ft. The 3 most recent leases signed in 2011 and 2012 have an average \$30.00 per sq. ft. indicating that the assessed rent rate is accurate.

[14] The ASR test is an indicator that the request would result in an under assessment. The fact that the existing assessment is outside the normal range does not change the fact that the request is inaccurate.

[15] Since the Board has not accepted the rental rates requested the issue of changing one input to the income calculation is not applicable in the decision.

Issue 2: The rental rate applied to fast food outlet is the appropriate rate.

Complainant's Position:

[16] The table of fast food leases submitted in support of the rental rate request used leases from fast food outlets in closer proximity and more similar than the Respondent's. In the opinion of the Complainant these leases were much more representative of the subject. The requested value is supported by a table of 7 leases (pg., 30 C-1). The table of fast food restaurants has a mean of \$30.14 per sq. ft. and a median of \$28.16 per sq. ft. supporting the requested value.

Respondent's Position

[17] The Respondent presented a table of 16 fast food restaurant leases (pg.34 R-1) indicating a rental rate median of \$31.50 per sq. ft. These leases are taken from across the City and not in quadrants as this type of use draws similar leases regardless of the location in the City.

Board decision on issue 2

[18] The Board accepts the Respondent position it is reasonable to use fast food restaurant leases from across the City. Fast food outlets have a City wide market and operate similarly regardless of location. Therefore the Board places more weight on the lease table in R-1 pg. 34 then on the Complainant's evidence. The evidence in C-1 is from a narrower range of 7 leases. The Respondent has used a better sample of 16 leases to develop the typical rental rate, 3 leases signed in 2012.

DATED AT THE CITY OF CALGARY THIS 28th DAY OF November 2013.



Tom Golden

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2 C-2	Complainant Rebuttal
3. 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.*

Roll	Address	Subject	Issue	Detail	Sub Detail
123108102	9110 Macleod Tr SE	Strip mall	income	Rent rate	