

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:

BCIMC REALTY CORPORATION
(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: 415015908

LOCATION ADDRESS: 430 COUNTRY HILLS BV NE

FILE NUMBER: 72640

ASSESSMENT: \$5,510,000

This complaint was heard on 9 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 # 72411). Further the parties advised that they have agreed the evidence and arguments in respect of the cap rate issue to be presented in respect of the hearing on the matter of the cap rate 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] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[3] The subject property at 430 Country Hills BV NE is a retail centre on 2.60 acres of land with a 1998 and 2009 year of construction (yoc) and assigned a B quality rating in the community of Country Hills Village. The Property Use is Commercial and Sub Property Use: CM1403 Retail – Shopping Centre – Power. The subject is in the Power Shopping Centre known as Country Hills Towne Centre. There is a gas bar/convenience store, separate car wash and 2 retail pad sites comprising 8,157 square feet (sq. ft.) including 394 sq. ft. of mezzanine space.

[4] The subject property's 8,157 square foot (sq. ft.) retail centre has two tenants; an Auto Quick Service facility leasing 2,010 sq. ft. at an assessed rate of \$29.00 per square foot (psf) and a restaurant dining lounge leasing 5,753 sq. ft. at an assessed rate of \$35.00 psf.

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

Issues:

[6] Is the current assessed capitalization rate (cap rate) of 6.25% applied to the 2013 assessment of Power Shopping Centres reflective of the market conditions as of the designated valuation date or is correct capitalization rate to apply is 6.75%?

[7] Is the assessed rental rate for the Auto Quick Services in excess of market value and should be reduced from \$29.00 per square foot (psf) to \$14.00 psf?

Complainant's Requested Value: \$4,680,000

Board's Decision:

[8] Based on the evidence and arguments presented the Board supports the use of the rental rate of \$29.00 psf along with a cap rate of 6.25% in the determination of the assessment.

[9] The assessment of \$5,510,000 is confirmed.

Position of the Parties

[10] 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.

[11] 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 Detail 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 Auto Repair Rental Rates and a profile of an equity comparable property. 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 and Municipal Government Board decisions in support of their position

[12] 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, and a map identifying the location of the property, and information on comparable properties related to the rental rate for Auto Quick Service. 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.

[13] Both parties placed numerous 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.

[14] 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:**

[15] The subject property is occupied by a gas bar/convenience store, a car wash, a dining lounge restaurant and an automotive service. The issue identified by the Complainant is the rental rate for the automotive service which is a Mr Lube with 3 drive thru bays (page 20 Exhibit C-1).

[16] The Complainant reported that the rental rate for Quick Auto facilities is \$29.00 psf and for Regular Auto facilities is \$14.00 psf. The Complainant argued that the services provided at this facility are similar to those provided by an auto repair service.

[17] On page 28 of Exhibit C-1 the Complainant presented a table titled 2013 Auto Repair Rental Rate Analysis. The table included the civic address, the Approximate Year of Construction (AYOC), the leased area, the lease start date, leased rate and the term for 39 properties the Complainant viewed to be comparable. The mean leased rate was reported as \$15.31 psf and the median as \$15.00 psf.

[18] As further support, the Complainant presented as an equity comparable the Shell Car Wash/Minit Lube at 156 Crowfoot GA NW. This property is classified as an auto mechanical repair facility with a market rental rate of \$14.00 psf.

[19] In summary the Complainant argued that the evidence fully supports the requested rate of \$14.00psf. The Complainant did not contest the rental rates assessed for the restaurant, car wash or gas bar/convenience store.

Respondent's Position:

[20] The Respondent argued there is a clear distinction between a Quick Service and Auto Repair facility. At a Quick Service the customer drives in for service and does not get out of their vehicle while the service is provided. Whereas with the Auto Service the customer drops the vehicle off for repair and picks it up later. It is the position of the Respondent that since the subject property is the location for a Mr Lube the classification as a Quick Service facility is correct.

[21] The Respondent provided on page 16 of Exhibit R-1 the rent roll for the month of July 2012 as provided by the Landlord in response to a request from the Respondent. The monthly rent for Mr Lube Canada LP the tenant leasing 2,010 sq. ft. was \$7,958.33 which on an annualized basis is \$95,499.96 which is \$47.51psf. The lease commenced January 2009 for a term of 15 years.

[22] Page 107 of Exhibit R-1 presented a table titled 2013 Auto Quick Service Rental Rate Analysis; the following presents the lease particulars from this table.

[23]

Civic Address	Lease Area (sq. ft.)	Lease Rental Rate	Lease Start Date	Lease term (Years)
3807 Bow Trail SW	1,646	\$39.10	01 Apr 10	10
1 1404 16 Av NW	1,785	\$29.41	01 Jun 11	5
100 5260 17 Av SE	1,965	\$21.00	01 Aug 11	5

Median \$29.41

Mean \$29.84

[24] The Respondent argued that for the subject property:

- 1) the current rental rate is \$47.51psf based on the rent roll provided by the landlord;
- 2) the leased area of 2,010 sq. ft. compares favourably with area for the Quick Service Auto comparables in the table on page 107 of Exhibit R-1; and
- 3) the location is leased by Mr Lube Canada LP for a Mr Lube operation where the customer remains in their vehicle while the services are provided which meets the criteria for a Quick Service Auto facility.

Therefore the rental rate of \$29.00 psf for the subject property is supported.

Board's Reasons for Decision:

[25] In support of the requested \$14.00 psf rental rate the Complainant presented on page 28 of Exhibit C-1 a table of lease particulars for 39 auto repair facilities. However, no information as to the type of service provided by each of the comparables was presented so it was not possible to distinguish between a quick service comparable and an auto repair comparable.

[26] On page 107 of Exhibit R-1 the Respondent presented a table titled 2013 Auto Quick Service Rental Rate Analysis. The 3 comparables presented in the Respondent's table are the same as the first 3 comparables in the Complainant's table on page 28 of Exhibit C-1. A review of the evidence by the Board determined:

- 1) the leased area of the subject at 2010 sq. ft. compares favourably with the leased area of the Respondent's 3 comparables which range from 1,646 sq. ft. to 1,965 sq. ft. ;
- 2) the mean rental rate is reported in the table as \$29.41 psf and the weighted average rental rate as calculated by the Board is \$29.30 psf; and
- 3) the services provided at the comparables are the same as the subject which is a Mr Lube as identified in the top photo on page 20 of Exhibit C-1.

[27] The current lease rate for the 2,010 sq. ft. is \$47.51 psf and the lease is with Mr Lube Canada LP for a Mr Lube operation which is a Quick Service facility.

[28] Based on the evidence and the arguments presented, the Board supports the Rental Rate of \$29.00 psf for the subject property.

Issue – Capitalization Rate**Complainant's Position:**

[29] 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%.

[30] 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.

[31] 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.

[32] 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.*

[33] 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

[34] 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)

[35] 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%

[36] 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:

[37] 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.

[38] 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.

[39] 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.

[40] 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%.

[41] 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%

[42] 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:

[43] 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.

Civic Address Property Name	Registration Date	Sale Price	Assessable Area	Respondent		Complainant	
				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%

[44] 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.

[45] 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.

[46] 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.

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

[48] 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.

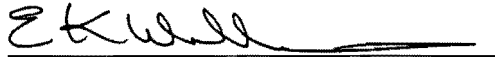
[49] To adjust for the sample size and to be reflective of the contribution of each transaction the Board calculated the weighted average of the 3 cap rates. Based on the methodologies argued by the parties the weighted average cap rates are:

Complainant: 6.14%

Respondent: 6.05%

[50] 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