

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:

7-Eleven Canada, Inc (as represented by Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. Thompson, Board Chair

J. Rankin, MEMBER

J. Mathias, 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: 031020001

LOCATION ADDRESS: 3510 39 AV NE

FILE NUMBER: 72801

ASSESSMENT: \$1,960,000

This complaint was heard on 4th 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:

- A. Izard Agent, Altus Group Ltd.

Appeared on behalf of the Respondent:

- T. Johnson Assessor, City of Calgary

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

- [1] Request was made by the Complainant to carry over exhibits C2 and C3 from file # 71430 and C4, C5 and C6 from file #73672.
- [2] Request was made by both parties to carry over the Capitalization Rate issue, argument and appropriate evidence from file #71430 and file #73672.

Property Description:

- [3] The subject property is a separately titled, free-standing gas bar with convenience store. It is located at 3510 39 Av. NE, carries a C-N2 land use and sits on 1.03 acres of land. The improvements were built in 2002 and the property is located in the community of Horizon. For the purposes of assessment this is a non-residential property with the improvements assessed on the Cost Approach to value and the land based on the Sales Approach. This parcel has traffic main, corner lot and shape influences attributed to it. The total assessed value is \$1,960,000.

Issues:

- [4] **Issue 1** – Is the most appropriate approach to value this property the Income Approach at a Capitalization Rate of 7.5% (not 7.0% as seen in the City's Free-Standing Retail study)? Note: If the Capitalization Rate remains at 7.0% a calculated value is given.
- [5] **Issue 2** - If the property's assessed value is not calculated on the Income Approach, would a more appropriate value be the Land-only value reduced by -30% for the perceived stigma of being a gas bar site?

Complainant's Requested Value: \$1,160,000 if Income Approach/7.5% Capitalization Rate
\$1,240,000 if Income Approach/7.0% Capitalization Rate
\$ 930,000 Land-only assessment with -30% for stigma

Board's Decision:

- [6] Assessment is confirmed at \$1,960,000.

Position of the Parties

Complainant's Position:

[7] **Issue 1** – Request that the Income Approach be used to value this property –The Complainant contends that leasing and marketing information are available for this type of property within this municipality, making this the preferred approach to value this property. The Complainant presented evidence of a number of 2010 and 2011 leases of gas bars (provided by the City of Calgary in various rental rate analyses) to show that there is leasing information available.

[8] In using the Income Approach to value, the Capitalization Rate should be 7.5 % not 7.0% as seen in the City's 2013 Free-Standing Retail Capitalization Rate Summary. Resulting values of free-standing retail properties would then more accurately reflect market. The requested value is \$1,160,000.

[9] Further, the Complainant stated that inequities are caused between the subject property, a free-standing gas bar with convenience store on a separate title, and similar property types of gas bars with convenience stores not on separate titles. The Cost Approach and Income Approach produce very different values.

[10] The Complainant provided a chart with 39 equity comparables of gas bars from across the City, five of which have been costed and the rest done on the Income Approach. The difference in the assessed values was pointed out. The Cost Approach values were considerably higher than those on the Income Approach.

[11] In using the Income Approach to value the Capitalization Rate should be 7.5%

- 1) The Complainant gave evidence of six valid, free-standing retail market transactions occurring in the assessment timeframe that were not included in the City's typical Capitalization Rate analysis for this property type. The inclusion of the six extra sales in this study (along with the three sales used in the City's analysis) would result in the Capitalization Rate being raised to 7.5%.
- 2) The Complainant included RealNet and Commercial Edge information, 2013 assessment information, Land Title documents, and Corporate Searches on each of the six additional sales transactions.
- 3) The City did use three sales in the 2013 Free-Standing Retail Capitalization Rate analysis. The Complainant had no issue with any of these and included these in their study.

[12] Should the Capitalization Rate remain at 7.0%, the requested value would be \$1,240,000.

[13] **Issue 2** - If the property's assessed value remains on the Cost Approach to value, it is requested that the land value be reduced by -30% due to the perceived stigma of potential contamination. The value on the property should then be based on the Land-Only value at \$930,000.

[14] Seven commercial land sales were presented for C-N land use sales analysis, two being former gas bar sites. The Complainant attributes the lower sale price per sq. ft. for these two

sites to having a stigma as a former gas bar site despite remediation. The Influence adjustment chart from the City was included showing a -30% reduction for sites proven to be contaminated, along with some remediated land sales and information.

Respondent's Position:

[15] **Issue 1 – Income vs. Cost Approach to value** - This property is a separately titled free-standing gas bar with a convenience store. In the valuation guide prescribed by the Province, the suggested best method for valuing this type of property is the Cost Approach to value. The City is audited by the Province on that basis. These properties are a separate legal entity even though they appear the same as gas bars not on their own title. This property has received an adjustment of +5% for a corner lot. Valuation Guides were included in the evidence package.

[16] Gas bars that are not on a separate title and which are part of a larger site such as a shopping centre are assessed using the Income Approach to value. The land is captured through the income attributed to the shopping centre in such an instance.

[17] One separately titled gas bar sale was introduced. It was a \$1,085,000 sale at 7404 Ogden Rd. SE and was used to support the value of the subject property.

[18] The Respondent noted that the values requested by the Complainant based on the Income calculations are less than the land value on this property. A number of vacant land sales were produced to show values of C-N land throughout the city.

[19] The Respondent stated that the Cost Approach to value was not a proxy for market value but one of the three accepted approaches to value.

[20] **Issue 1 - Capitalization Rate analysis** – subsequent to the evidence exchange and prior to the hearing, the City did agree with one of the six sales provided by the Complainant and added it into their Capitalization Rate study for free-standing retail with no resulting change in the typical Capitalization Rate. The City contested the other five sales, two were declared non-arm's length, one had additional rental income from signage, one include vendor take-back financing and one was purchased to convert to an office building. All documentation to support their position was provided, including assessment property summary report, income calculation sheet, RealNet, corporate search, non-residential sales questionnaire (where available), Assessment Request For Information (ARFI), and land title documents.

[21] **Issue 2 Request for Land-only value recognising a -30% for stigma** - The City does not recognize perceived stigma as the effect on Market Value is difficult to quantify, depending on the extent and nature of the contamination. The Respondent did provide Environmental Information on contamination and showed the subject site did not have anything registered with Alberta Environment.

Board's Reasons for Decision:

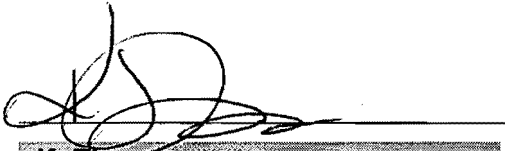
[22] **Issue 1 - Income vs. Cost Approach** – The Board accepts the Cost Approach to value for this property after consideration of all of the evidence and argument provided. The parties note there is a considerable difference in values if done on the Cost or Income Approach to value. The value obtained using the Income Approach appears to be less than the land value for the property. The Board takes the position that gas bars on a separate title are not truly comparable to gas bars that are part of a larger shopping centre parcel. The compelling distinction is the separate title. The Complainant's proposed income value calculation was

developed by taking the components of value derived from one set of properties and applying it to a different set of properties. The property should remain valued on the Cost Approach. Having determined this, the remaining parts of the Income argument such as the appropriate Capitalization Rate are moot.

[23] Gas bars are properties that produce an income, however they do not trade frequently on the market (only 1 sale could be produced). The leases that are available are not straightforward market leases (at least one of the examples given was a land lease). The scarcity of reliable market data for this type of property makes it difficult to test the results of an Income Approach calculation.

[24] **Issue 2 – Reduce the Land Value for stigma, Value on Land-Only** – Application of the Cost Approach for separately titled gas bars appears to be consistent across the city. The Board did not see any evidence suggesting that the property was not operating at its Highest and Best Use as a gas bar. The Board therefore finds no reason use a land-only value assessment for this property. There was no compelling evidence produced to show that a perceived stigma existed on this property, or that there might be future impact on the market value if the owner were to sell it.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF August 2013.


K. Thompson

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	Complainants Rebuttal
4. C4a, C4b	Complainant Disclosure
5. C5	Complainant Disclosure
6. C6	Complainant Rebuttal
7. 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.*