



Calgary Assessment Review Board

DECISION WITH REASONS

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

between:

MV Property Ltd.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
P. Charuk, 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: 200168136

LOCATION ADDRESS: 5220 FALSBRIDGE DR NE

FILE NUMBER: 72995

ASSESSMENT: \$20,220,000

This complaint was heard on the 14th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *B. Neeson*

Appeared on behalf of the Respondent:

- *G. Jones*
- *V. LaValley*

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

[1] The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the *MGA*. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

[2] The subject property is a neighbourhood shopping centre. According to the information provided, the property contains eight buildings that were constructed between 1989 and 1992. All of the buildings have a quality rating of B+ and range in size from 2,861 square feet (sf) to 16,052 sf. The buildings are situated on an assessable land area of 298,816 sf.

[3] The subject is assessed using the Income Approach to value by applying a market net rental rate to the various sub-component spaces of the buildings, which include Commercial Retail Units (CRU), retail bank, fast food restaurant and drug store among others. The factors involved result in a net operating income (NOI) of \$1,482,431, after consideration is given for allowances such as vacancy, operating costs and non-recoverables. The NOI is capitalized for assessment purposes using a 7.00% capitalization rate (cap rate). It is noted that the subject contains exempt space that is valued by the assessment at \$950,000. This exempt space is removed from the total assessed space to arrive at the assessment value.

Issues:

[4] The Complainant addressed the following issue at this hearing:

- a) The assessed cap rate applied in the Income Approach to value should be increased to 7.50%.
- b) The assessed rental rate for CRU space of less than 1,000 sf should be adjusted to \$23.00 per sf from the assessed \$25.00 per sf.
- c) The assessed rental rate for CRU and PAD spaces between 2,501 sf and 6,000 sf should be adjusted to \$20.00 per sf from the assessed \$23.00 per sf.

Complainant's Requested Value: \$18,170,000

Board's Decision:

[5] The complaint is rejected and the assessment is confirmed at \$20,220,000.

Legislative Authority, Requirements and Considerations:

[6] As in accordance with *MGA, Section 467(3)*, a CARB 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.*

Position of the Parties

ISSUE 1: The assessed cap rate applied in the Income Approach to value should be increased to 7.50%.

Complainant's Position:

[7] The Complainant provided a 131 page document entitled "Evidence Submission" that was entered into the hearing as "Exhibit C1". In addition, the Complainant requested that all evidence and argument made on this issue in hearing file #72212 be brought forward to this hearing. Therefore, the 241 page disclosure document entitled "Shopping Centre Capitalization Rate Analysis, Evidence Appendix" that was entered as "Exhibit C2" and the 400 page disclosure document entitled "Community – Neighbourhood Shopping Centre Capitalization Rate Historical Data, Evidence Appendix" that was entered as "Exhibit C4" in hearing file #72212 shall be brought forward to this hearing. The Complainant, along with Exhibits C1, C2 and C4, provided the following evidence and argument with respect to this issue:

[8] Two charts corresponding to two methodologies with regards to cap rate analysis. Both methodologies involved the analysis of the sales of five neighbourhood shopping centres. They include:

- a) Chinook Station, BMO at 6550 Macleod Trail SW with a sale date of March 3, 2012 and a sales price of \$4,250,000,
- b) Southview Plaza at 3301 17 Ave. & 1819 33 St. SE with a sale date of December 30, 2011 and a sales price of \$2,700,000,
- c) Macleod Trail Plaza at 180 94 Ave. SE with a sale date of August 18, 2011 and a sales price of \$33,750,000,
- d) Pacific Place Mall at 999 36 St. SE with a sale date of May 27, 2011 and a sales price of \$44,000,000, and
- e) Sunridge Sears Centre at 3320 Sunridge Way NE with a sale date of January

19, 2011 and a sales price of \$12,600,000.

[9] The first methodology, "Cap Rate Method I", involved the derivation of a median cap rate among the five sales by applying the same market rental rates, vacancy rates, operating costs, and non-recoverable rates as was used by the Respondent in developing its assessment. The derivation of the cap rate on each sale was calculated by dividing the assessed NOI by the actual sales price of the respective neighbourhood shopping centres. The median rate derived under this methodology was 6.87%.

[10] The second methodology, "Cap Rate Method II", used guidance from the February, 1999 Alberta Assessors Association Valuation Guide (AAAVG) that involved the derivation of a median cap rate among the five sales by applying "typical" market rental rates as calculated by the Complainant, to the various spaces of each of the neighbourhood shopping centres. The AAAVG guided this calculation with the following recommendations:

- a) *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):*
 - i. *Actual leases signed on or around the valuation date.*
 - ii. *Actual leases within the first three years of their term as of the valuation date.*
 - iii. *Current rents for similar types of stores in the same shopping centre.*
 - iv. *Older leases with active overage rent or step-up clauses.*
- b) *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 tenants in other similar properties.*
- c) *If comparable information is not available, it may be necessary to analyze the existing lease and interview the owner and tenant(s) to determine what the current rent on the space should be.*

[11] In the Cap Rate Method II, the Complainant used the same vacancy rates, operating costs, and non-recoverable rates that were used by the Respondent in developing its assessment. The derivation of the cap rate on each sale was calculated by dividing the "typical" NOI by the actual sales price of the respective neighbourhood shopping centres. The median rate derived under this methodology was 7.63%.

[12] Various documentation surrounding the sale and respective assessments of each neighbourhood shopping centre. The following information is highlighted from that documentation:

- a) Chinook Station, BMO:
 - i. A December 31, 2012 Assessment Summary Report stating that the property was assessed using an Income Approach to value, using one building with an A2 quality rating that was constructed in 2012.
 - ii. The 2012 Income Approach assessment valuing the property at \$3,880,000 using a 7.00% cap rate.
- b) Southview Plaza:
 - i. A December 31, 2011 Assessment Summary Report of 3301 17 Ave.

SE stating that the property was assessed using a Sales Approach to value, using one building with an C quality rating, that was constructed in 1958.

- ii. A preliminary 2011 Income Approach assessment valuing the property at \$2,520,000 using a 7.25% cap rate.
- iii. A December 31, 2011 Assessment Summary Report of 1819 33 St. SE stating that the property was assessed using an Income Approach to value, using one building with a C- quality, that was constructed in 1970.
- iv. A 2012 Income Approach assessment valuing the property at \$1,760,000 using a 7.25% cap rate.

c) Macleod Trail Plaza:

- i. A December 31, 2011 Assessment Summary Report stating that the property was assessed using an Income Approach to value, using four buildings with B quality ratings, three of which were constructed in 1974 and one in 1987.
- ii. A 2012 Income Approach assessment valuing the property at \$31,970,000 using a 7.25% cap rate.

d) Pacific Place Mall:

- i. A December 31, 2011 Assessment Summary Report stating that the property was assessed using an Income Approach to value, using two buildings with A2 and B+ quality ratings that were constructed in 1980.
- ii. The 2012 Income Approach assessment valuing the property at \$34,460,000 using a 7.25% cap rate.

e) Sunridge Sears Centre:

- i. A December 31, 2011 Assessment Summary Report stating that the property was assessed using an Income Approach to value, using two buildings with B- quality ratings that were constructed in 2002.
- ii. The 2012 Income Approach assessment valuing the property at \$11,380,000 using a 7.25% cap rate.

[13] In addition to the above sales comparables, the Complainant provided five additional sales of neighbourhood shopping centres that occurred from January, 2009 to December, 2009. Again, two charts were provided corresponding to the two aforementioned methodologies with regards to cap rate analysis. Both methodologies involved the analysis of the sales of seven neighbourhood shopping centres, being the aforementioned Pacific Place Mall and Sunridge Sears Centre and the five 2009 sales, which include:

- a) Calgary East Retail Centre at 2929 Sunridge Way NE with a sale date of December 18, 2009 and a sales price of \$19,585,500,
- b) Braeside Shopping Centre at 1919 Southland Drive SW with a sale date of December 14, 2009 and a sales price of \$15,275,000,
- c) Cranston Market at 356 Cranston Road SE with a sale date of October 28,

2009 and a sales price of \$32,000,000,

- d) McKnight Village Mall at 5220 Falsebridge Gate NE with a sale date of May 1, 2009 and a sales price of \$19,270,000, and
- e) Chinook Station, Office Depot at 306 Glenmore Trail SW with a sale date of January 20, 2009 and a sales price of \$6,944,450.

[14] The "Cap Rate Method I" methodology derived a mean cap rate of 7.69% among the seven neighbourhood shopping centre sales.

[15] The "Cap Rate Method II" methodology derived a median cap rate of 7.71% and a mean cap rate of 7.80% among the seven neighbourhood shopping centre sales.

[16] Again, various documentation surrounding the sale and respective assessments of each of the additional five 2009 neighbourhood shopping centre sales was provided in a similar fashion to that provided with the five post 2009 neighbourhood shopping centres.

Respondent's Position:

[17] The Respondent provided a 662 page disclosure document that was entered into the hearing as "Exhibit R1". In addition, the Respondent requested that all argument made on this issue in hearing file #72212, be brought forward to this hearing. Therefore the Respondent, along with Exhibit R1 and argument from hearing file #72212, provided the following evidence with respect to this issue:

[18] The 2013 Income Approach to value assessment of the subject using a cap rate of 7.00%.

[19] A copy of an Assessment Request for Information (ARFI) dated April 3, 2013 signed by a representative of the owner of the Chinook Station, BMO sales comparable indicating that the BMO lease included 35,000 sf of the accompanying land (a land lease) and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[20] A copy of the RealNet and Commercial Edge land transaction summary of the Chinook Station, BMO sales comparable indicating that the property was being utilized as an asphalt surface parking lot by the vendor and vacant at the time of sale. The BMO building was built on the property subsequent to the sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[21] A copy of a City of Calgary Non-Residential Sales Questionnaire signed by a representative of the owner of the Chinook Station, BMO sales comparable again indicating that the sale was vacant land, not brokered and required \$170,000 in utility servicing subsequent to the sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[22] A copy of the RealNet land transaction summary of the Southview Plaza sales comparable at 3301 17 Ave. SE indicating that the property was vacant at the time of sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[23] A copy of an ARFI dated March 23, 2010 signed by a representative of the owner of the Southview Plaza sales comparable at 3301 17 Ave. SE indicating that the property was owner occupied prior to its sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[24] A copy of the RealNet land transaction summary of the Southview Plaza sales comparable at 1819 33 St. SE indicating that the property was sold separately from the adjoining property at 3301 17 Ave. SE, which was vacant at the time of sale and therefore should not be used as a neighbourhood shopping centre sales comparable for a cap rate study.

[25] A neighbourhood shopping centre cap rate summary chart involving the analysis of the sales of three neighbourhood shopping centres (Macleod Trail Plaza, Pacific Place Mall and Sunridge Sears Centre), which were also used by the Complainant. The median cap rate calculated was 6.87%.

[26] Various copies of Altus Group documentation on the leased spaces of the post 2009 neighbourhood shopping centre sales comparables. The documentation indicated that Altus often sought lower rates on complaints involving market lease rate issues, and then sought higher rates for the same spaces, when they do a cap rate study under Cap Rate Method II.

[27] A 2013 Neighbourhood Shopping Centre, Assessment to Sales Ratio (ASR) test comparing a 7.50% (Complainant's calculation) cap rate to a 7.00% (Respondent's calculation) cap rate. Using the five post 2009 sales comparables a 7.00% cap rate produced an ASR of 0.9674, while the 7.50% cap rate produced an ASR of 0.9028. Using the three common sales comparables a 7.00% cap rate produced the same ASR of 0.9674, while the 7.50% cap rate produced the same ASR of 0.9028.

Complainant's Rebuttal:

[28] The Complainant requested that all evidence and argument made in rebuttal on this issue in hearing file #72212, be brought forward to this hearing. Therefore, the 94 page disclosure document entitled "Neighbourhood Community Capitalization Rate Analysis, Rebuttal Submission" that was entered as "Exhibit C3" in hearing file #72212 shall be brought forward to this hearing. The Complainant, along with Exhibit C3, provided the following evidence and argument with respect to this issue:

[29] Evidence to counter the Respondent's argument that non-brokered sales such as the Chinook Station, BMO sale should not be used in a cap rate analysis. The Complainant provided an example where the Respondent has in the past used non-brokered sales in its cap rate studies.

CARB Findings:

[30] The CARB finds the following with respect to this issue:

[31] That the Chinook Station, BMO sale is not accepted as a comparable neighbourhood shopping centre because it was unserviced vacant land at the time of sale. Further, the rental rate achieved at this site and used by the Complainant in its Cap Rate Method II is substantially higher than what one might expect at other retail bank sites.

[32] That the Southview Plaza sale is not accepted as a comparable neighbourhood shopping centre because it was sold off separately in two separate sales transactions; one being the former Safeway or anchor tenant site and one being the site of the various CRUs. The resulting cap rate calculated substantiates this dissimilarity to other neighbourhood shopping centre comparables.

[33] That the two cap rate studies provided by the Complainant support or complement each other when comparing the cap rates derived from the three common sales neighbourhood

shopping centre sales used by both parties, i.e., Macleod Trail Plaza, Pacific Place Mall and Sunridge Sears Centre. They do not support or complement each other when comparing the cap rates derived from the two additional neighbourhood shopping centre sales introduced by the Complainant, i.e., Chinook Station, BMO and Southview Plaza.

[34] That the median cap rate calculated under Cap Rate Method I for the five post 2009 sales comparables substantiates and supports the calculated median cap rate of the Respondent and does not support the median cap rate calculated by the Complainant under Cap Rate Method II.

[35] That the 2009 neighbourhood shopping centre sales comparables are deemed by the CARB to be dated. Although there is no timeline or legislative restriction to limit a cap rate analysis to sales comparables within a three year period, the CARB finds that 2009 was a different market for neighbourhood shopping centres. The CARB finds that cap rates for the 2009 sales comparables were clearly differentiated from post 2009 sales comparables in both of the Complainant's cap rate methodologies showing a much tighter or smaller range and higher medians. In addition, the AAVG guides that in the development of market rental rates, lease comparables of *"Actual leases within the first three years of their term as of the valuation date"* can be used whenever actual lease rates around the valuation date are not available. The CARB concludes from this that if lease rates beyond three years should not be used to establish market rental rates, then sales comparables beyond three years are less reliable in establishing cap rates when more current ones are available.

[36] That the ASR analysis as calculated by the Respondent is accepted and is a clear indication that the ASRs achieved using a 7.50% cap rate, as calculated by the Complainant under Cap Rate Method I, produces inferior results when compared to the ASR's achieved using the Respondent's 7.00% cap rate.

ISSUE 2: The assessed rental rate for CRU space of less than 1,000 sf should be adjusted to \$23.00 per sf from the assessed \$25.00 per sf.

Complainant's Position:

[37] The Complainant, along with Exhibits C1, provided the following evidence and argument with respect to this issue:

[38] A Master Rent Roll of the subject property. The Complainant highlighted a 614 sf space with a lease start date of July 1, 2012 had a net lease rate of \$19.00 per sf.

[39] A 2013 Rental Rate Analysis of nine CRU spaces with areas of less than 1,000 sf, comparing respective lease rental rates. The CRU spaces were from four neighbourhood shopping centres and one community shopping centre with quality rating varying from B- to B+ and all within the NE quadrant of the city. Lease commencement dates varied from April 1, 2010 to November 1, 2011. Lease rates varied from \$18.00 per sf to \$33.00 per sf with a median lease rate of \$22.00 per sf.

Respondent's Position:

[40] The Respondent, along with Exhibits R1, provided the following evidence and argument with respect to this issue:

[41] An ARFI of one of the rental rate comparables at 55 Castleridge Bv NE, dated March 23 2010 and a corresponding and updated ARFI of the same property faxed April 12, 2012. The evidence showed that the two comparables used by the Complainant in its rental rate analysis was no longer a space that was under 1,000 sf. It had been combined with a neighbouring space to form a 1,351 sf space with a lease start date of October 1, 2011 and a net rental rate of \$22.00 per sf. The Respondent argued that one of the two B+ CRU spaces at 55 Castleridge Bv NE, which was used by the Complainant in its rental rate analysis, should be disregarded.

[42] A table of fourteen CRU spaces with areas of less than 1,000 sf, comparing respective lease rental rates. The lease rate comparables included just one of the comparables used by the Complainant in its analysis. The comparables were from two neighbourhood shopping centres and two enclosed shopping malls, all with quality ratings B+, like the subject. Lease commencement dates varied from February 1, 2010 to April 1, 2012. Lease rates varied from \$18.00 per sf to \$30.00 per sf with a median lease rate of \$25.00 per sf.

CARB Findings:

[43] The CARB finds the following with respect to this issue:

[44] That the Respondents lease rate comparables were superior to that of the Complainant, characterized by a larger sample size with respect to the number of CRU spaces and quality ratings that matched the subject. The Complainant introduced B- quality comparables in its analysis. The CARB finds that the introduction of B- comparables could arguably necessitate the addition of A- comparables, which would have allowed for a more balanced rental rate analysis around a B+ subject property.

[45] That the Respondent's enclosed shopping centres CRU spaces were within the range of lease rates of the other comparables. The Complainant provided no other evidence to dispute that lease rates of CRU spaces with areas of less than 1,000 sf and within enclosed shopping centres, are not comparable to CRU spaces with areas of less than 1,000 sf and within neighbourhood shopping centres.

ISSUE 3: The assessed rental rate for CRU and PAD spaces between 2,501 sf and 6,000 sf should be adjusted to \$20.00 per sf from the assessed \$23.00 per sf.

Complainant's Position:

[46] The Complainant, along with Exhibits C1, provided the following evidence and argument with respect to this issue:

[47] A table of three CRU spaces with areas between 2,501 and 6,000 sf, comparing respective lease rental rates. The CRU spaces were from the neighbouring neighbourhood shopping centre at 55 Castleridge Bv NE. The spaces had quality ratings of B+ like the subject, with lease commencement dates varying from October 4, 2011 to September 1, 2011. Lease rates varied from \$19.00 per sf to \$24.00 per sf with a median lease rate of \$20.00 per sf.

Respondent's Position:

[48] The Respondent, along with Exhibits R1, provided the following evidence and argument with respect to this issue:

[49] A table of ten CRU spaces with areas between 2,501 sf and 6,000 sf, comparing respective lease rental rates. The lease rate comparables included all the comparables used by the Complainant in its analysis. The comparables were from three neighbourhood shopping centres and one enclosed shopping mall, with quality rating B+ like the subject. Lease commencement dates varied from May 1, 2010 to December 1, 2011. Lease rates varied from \$18.00 per sf to \$38.00 per sf with a median lease rate of \$23.00 per sf.

CARB Findings:

[50] The CARB finds the following with respect to this issue:

[51] That the Respondents lease rate comparables were superior to that of the Complainant, characterized by a larger sample size with respect to the number of CRU spaces and the number of shopping centres compared.

[52] That the Complainant excluded one comparable in its analysis at the same shopping centre it used at 55 Castleridge Bv NE. A 3,800 sf CRU space with a lease start date of November 1, 2011 and a lease rate of \$38.00 per sf. The inclusion of this space in the Complainant's analysis would have altered the median rate to \$22.00 per sf.

[53] That the Complainant provided no evidence to dispute that the lease rate of the CRU space with areas between 2,501 and 6,000 sf and within an enclosed shopping centre is not comparable to CRU spaces with areas between 2,501 and 6,000 sf and within neighbourhood shopping centres.

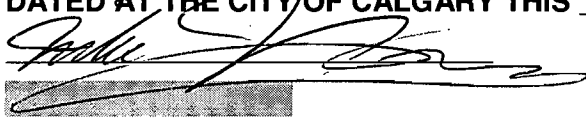
Board's Reason for Decision:

[54] The two additional neighbourhood shopping centre sales offered by the Complainant are not deemed by the CARB to be useful in the derivation of an alternative cap rate. The CARB points to the Complainant's own evidence, which showed that the cap rates derived in each methodology were either materially different from the other three common sales used by the Respondent and the Complainant or were not supported by the respective cap rate methodologies used by the Complainant.

[55] The ASR test as provided by the Respondent supported the assessment parameters used by the Respondent in its Income Approach valuation. The Complainant neither refuted the Respondent's ASR analysis, nor provided one of its own that would show that a 7.50% cap rate produces superior ASR results. In the absence of better and more supportive evidence to the contrary, the Respondent's cap rate prevails.

[56] The Respondent's lease rate comparables of CRU spaces of less than 1,000 sf and between 2,501 sf to 6,000 sf are superior to that of the Complainant, characterized by larger sample sizes and median rates that support the market net rental rates used in the subject's Income Approach assessment.

DATED AT THE CITY OF CALGARY THIS 70th DAY OF September 2013.

A handwritten signature in black ink, appearing to be "Jackie S. [unclear]", written over a grey rectangular stamp.

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2 from hearing file #72212	Complainant Disclosure
3. C4 from hearing file #72212	Complainant Disclosure
4. R1	Respondent Disclosure
5. C3	Complainant Rebuttal

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 Office Only)

Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Neighbourhood mall	Income Approach	Cap Rate & Lease Rate