



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:

***SOUTHLAND CROSSING SHOPPING CENTRE LTD.
C/O RIOCAN MANAGEMENT INC.
(As represented by Altus Group)
COMPLAINANT***

and

THE CITY OF CALGARY, RESPONDENT

before:

***W. Krynski, PRESIDING OFFICER
J. Pratt, BOARD MEMBER
P. Pask, 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:	124191404
LOCATION ADDRESS:	9737 MacLeod Trail SW
FILE NUMBER:	73127
ASSESSMENT:	\$40,660,000

This complaint was heard on 29th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *K. Fong*

Appeared on behalf of the Respondent:

- *H. Yau*
- *C. Yee*
- *J. Lepine*

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

- [1] There were no concerns from either party, respecting the panel representing the Board as constituted.
- [2] Both parties requested that all capitalization rate (cap. rate) evidence and argument presented at Hearing #72410 be cross-referenced to the following Hearings: 72243; 72277; 72352; 72371; 72389; 72392; 72402; 72404; 72975; 73127; 73134.
- [3] Both parties requested that all A quality shopping centre grocery store rental rate evidence and argument presented at Hearing #72243 be cross-referenced to the subject Hearing.
- [4] As no further jurisdictional or procedural matters were raised at the outset of the Hearing, the Board proceeded to hear the merits of the complaint.

Property Description:

- [5] The subject property comprises an A quality Neighbourhood Shopping Centre, known as Southland Crossing, located at 9737 MacLeod Tr. SW. Constructed in 1989, it is situated in the community of Haysboro. Total net rentable area for the subject property is 132,063 square feet (sf). The improvements are situated on a 9.50 acre parcel of land which is zoned Commercial-Corridor 3 and Direct Control District.

Issues:

- [6] The Complainant addressed the following issues at the Hearing:
 - The assessment is in error, as the capitalization rate applied in the Income Approach valuation is incorrect at 7.0%. The capitalization rate applied should be 7.5%.
 - The assessment is incorrect, as the A quality grocery store rental rate is incorrect at \$18.00. The correct rate should be \$15.00.

Complainant's Requested Value: \$34,130,000.

Board's Decision

- [7] The complaint is allowed in part, and the Board reduces the assessment to **\$39,410,000**.

Legislative Authority, Requirements and Consideration

- [8] The Act, Section 460.1(2), subject to Section 460(11), specifies a Composite Assessment Review Board has jurisdiction to hear complaints about any matter referred to in Section 460(5) that is shown on an assessment notice for property, other than property referred to in Subsection 460(1)(a).

Position of the Parties**Issue 1: Capitalization Rate****Complainant's Position:**

- [9] The Complainant is arguing that the Capitalization rate of 7.0% results in assessments that are not reflective of market value as at July 1, 2012. Altus is requesting that the capitalization rate for neighbourhood shopping centres be changed to 7.5%.
- [10] In support of this position, the Complainant has provided two distinct methodologies of capitalization rate analyses. Capitalization rate Method I utilizes the application of assessed income as determined by the City of Calgary, while capitalization rate Method II calculates typical market income in a manner purported to be prescribed by the Alberta Assessor's Valuation Guide (AAVG) and the "Principles of Assessment" training program. Method I was indicated by the Complainant as the method utilized by the City in its analysis.
- [11] The Complainant provided 2 capitalization rate analysis charts of sales that occurred in the period January 19, 2011 through March 3, 2012 [C-1, pg. 32]. The sales respecting analysis Method I and Method II are summarized below:

2013 NBHD-Community Shopping Centre Analysis - Method I							
<u>S/C Name</u>	<u>Address</u>	<u>Sale Date</u>	<u>Area</u>	<u>Rate</u>	<u>N.O.I.</u>	<u>Sale Price</u>	<u>C/R</u>
Chinook Station	6550 Macleod Tr. SE	3/12/2003	7,182	42.00	271,921	\$4,250,000	6.40%
Southview Plaza	3301 17 Ave. SE	12/11/1930	30,375	10.71	305,510	\$2,700,000	11.32%
MacLeod Tr. Plaza	180 94 Ave SE	8/11/2018	123,766	19.90	2,318,302	\$33,750,000	6.87%
Pacific Plaza Mall	999 36 St. NE	8/11/2027	188,537	17.96	3,078,515	\$44,000,000	7.00%
Sunridge Sears Centre	3320 Sunridge wy. NE	1/11/2019	60,514	14.41	825,181	\$12,600,000	6.55%
						Mean:	7.63%
						Median:	6.87%

2013 NBHD-Community Shopping Centre Analysis - Method II							
S/C Name	Address	Sale Date	Area	Rate	N.O.I.	Sale Price	C/R
Chinook Station	6550 Macleod Tr. SE	03-03-12	7,182	60.71	410,717	\$4,250,000	9.66%
Southview Plaza	3301 17 Ave. SE	30-12-11	30,375	9.73	277,878	\$2,700,000	10.29%
MacLeod Tr. Plaza	180 94 Ave SE	18-08-11	123,766	18.31	2,128,680	\$33,750,000	6.31%
Pacific Plaza Mall	999 36 St. NE	27-05-11	189,176	19.43	3,355,812	\$44,000,000	7.63%
Sunridge Sears Centre	3320 Sunridge wy. NE	19-01-11	60,514	16.33	932,845	\$12,600,000	7.40%
						Median:	7.63%
						Weighted Mean:	7.30%

- [12] It was noted that both Methods I and II incorporated the three sales from the City Analysis: Macleod Trail Plaza, Pacific Plaza Mall and Sunridge Sears Centre. Chinook Station and Southview Plaza were not included in the City analysis.
- [13] The Complainant summarized that method I reflected a mean cap. rate of 7.63% and a median cap. rate of 6.87%, while method II yielded median cap. rate of 7.63% and a weighted mean cap. rate of 7.30%.
- [14] Further to this, the Complainant provided two charts, each titled "2013 NBHD-Community Shopping Centre Analysis=Capitalization Rate Method I" [C-1; Pg. 54]. It was noted that the second chart contained the additional sales that were utilized to determine the cap rate for the 2012 taxation year. Considering all the sales together, the mean cap rate is calculated as 7.84%, while the median cap rate was indicated to be 7.63%.
- [15] Repeating the same exercise for cap rate method II [C-1, pg.56], yielded a median of 7.76% and a weighted mean of 7.53%.
- [16] Additionally, documents identified as exhibits C-2 through C-7 were submitted in support of the capitalization rate argument.
- [17] Based on all the foregoing, the Complainant submits that a 7.5% capitalization rate results in a better market value assessment.

Respondent's Position:

- [18] The Respondent provided a document (R-1) in support of the current assessment.
- [19] In addition to various maps, photos, etc. of the subject property, Property Detail Reports and Assessment Explanation Supplements were provided for the subject property, as well as for the three sales utilized by the City.
- [20] The Respondent provided an analysis chart titled "2013 Neighbourhood, Community Centre Capitalization Rate Summary" [R-1, Pg. 84]. The summary is replicated below:

2013 Neighbourhood, Community Centre Capitalization Rate Summary						
<u>S/C Name</u>	<u>Address</u>	<u>Sale Date</u>	<u>Area</u>	<u>N.O.I.</u>	<u>Sale Price</u>	<u>C/R</u>
Sunridge Sears Centre	3320 Sunridge wy. NE	2011-01-19	60,514	825,181	\$12,600,000	6.55%
Pacific Plaza Mall	999 36 St. NE	2011-05-27	188,537	3,078,515	\$44,000,000	7.00%
MacLeod Tr. Plaza	180 94 Ave SE	2011-08-18	123,766	2,318,301	\$33,750,000	6.87%
					Median	6.87%
					Average	6.80%
					Assessed	7.00%

- [21] The Respondent noted that the three sales listed above were also included in the Complainant's analysis. It was noted that the sales are reasonably current, (January 2011 to August 2011), and reflect median and average cap rates of 6.87% and 6.80% respectively, which support the assessed 7.0% cap rate.
- [22] Additionally, the Respondent referenced the section "Review of Altus' Capitalization Rate 1 and 2" [R-1; Pgs. 80-218], providing supporting documentation to their sales, as well as their argument that the two additional sales utilized by the Complainant were not representative of typical neighbourhood shopping centres, and consequently, should not be utilized in the capitalization rate analysis.
- [23] The Respondent argued that the Altus method II cap rate calculations are predicated on an outdated (1999) version of the AA AVG manual, and they advise that a more current (2012) version of the manual now exists.
- [24] Finally, in support of their position and assessment market level accuracy, the Respondent submitted a summary chart titled "2013 Neighbourhood/Community Shopping Centre ASR Test Complaint Methodology" [R-1; Pg. 253]. The Assessment to Sale Ratio (ASR) analysis included ASR results respecting the three common sales, as well as the two additional sales included in the Altus evidence. Results were tabulated for the sales predicated on assessments as they currently stand, as well as for both of Altus's Methods I & II. Current assessments with a 7% cap rate yielded average and median ASR's of 0.975 and 0.967 respectively. Altus Method I predicated on a 7.5% cap. rate indicated average and median ASR's of 1.138 and 0.915 respectively, while Method II, with a 7.5% cap. rate yielded average and median ASR's of 1.168 and 1.139 respectively. Based on the ASR results, the City argues that the cap. rate change proposed by Altus does not provide superior market-related assessments, as claimed.

Board's Reasons for Decision:

- [25] There was insufficient market evidence from the Complainant to convince the Board that a variance to the capitalization rate is justified.
- [26] The Board has some concerns with the Complainant's reference to the outdated version of the AA AVG. Notwithstanding this, the Board notes that the AA AVG is merely a guide for assessors. It is neither regulated nor legislated, and as such, it has no legal bearing.
- [27] The Board reviewed in depth the additional two sales put forward by the Complainant,

and is of the opinion that neither of the two sales are representative of typical Neighbourhood/Community Shopping Centre sales.

- [28] The sale at 6550 MacLeod Trail SW (Chinook Station) was indicated to be a vacant land sale. The evidence was unclear as to whether or not the value of the forthcoming improvement was actually included in the sale price. The sale should be excluded from the analysis.
- [29] The sale at 3301 17 Ave. SE and 1819 33 St. SE, (Southview Plaza) was shown to be two separate sales, from the same vendor to two different purchasers. Additionally, the anchor store was 100% vacant, while the CRU spaces were 40% vacant. From an economic perspective, this sale was not reflective of conditions inherent in a typical shopping centre sale, and should not be included in the analysis.
- [30] The Board cannot overemphasize the importance of utilizing sales of truly comparable properties in Capitalization Rate Studies. To do otherwise puts into question the accuracy of the ensuing results.
- [31] In order for this Board to vary the assessed capitalization rate, it is crucial that the Complainant provide market evidence that the proposed changes result in a better or more accurate assessment. The only market evidence in this regard was put forward by the City in the form of an ASR analysis. The results clearly showed that the Altus requested cap rate change resulted in assessments more varied, and distanced from indicated market levels.
- [32] In the final analysis, the Complainant did not satisfy the "burden of proof" requirement to convince the Board that a variance in the capitalization rate was warranted. While the City's evidence was less than ideal (from a quantity of sales perspective), the three sales provided support to the assessed 7.0% capitalization rate. The ASR's provided a mean/median of 0.975 and 0.967, while the mean/median utilizing the requested 7.5% capitalization rate reflect mean/median ASR's of 1.138/0.915 and 1.168/1.139, for Altus Methods I & II. The City's assessed average/median ASR's are within the mandated range.

Issue 2: Grocery Store Rental Rate for A Quality stores

Complainant's Position:

- [33] The Complainant is arguing that the assessed grocery store rental rate of \$18.00 is too high. Altus is requesting that the grocery store rental rate for A quality neighbourhood shopping centres be reduced to \$15.00.
- [34] In support of this position, the Complainant has provided a chart titled "A=Prime/Good location-Newer or Renovated Stores" [C-1; Pg. 36]

Grocery Leasing Analysis						
<i>'A=Prime/Good Location - Newer or Renovated Stores'</i>						
Tenant	Civic Address	Shopping Centre	Area (Sf)	Rental Rate	Leasing Year	Term
Canada Safeway	3625 Shaganappi Trail NW	Market Mall	43,026	\$8.40	2011	10
Canada Safeway	70 Shawville Blvd. SE	Shawnessy Village	51,978	\$10.47	2011	10
Calgary Co-op	1221 Canyon Meadows Drive SE	Deer Valley Marketplace	55,130	\$15.00	2011	20
Canada Safeway	100 Anderson Road SE	SouthCentre Mall	76,326	\$15.00	2011	5
Calgary Co-op	163 Quarry Park Blvd. SE	The Market at Quarry Park	45,358	\$26.45	2010	20
Sobeys Capital	356 Cranston Road SE	Cranston Market	41,334	\$19.00	2009	20
Canada Safeway	1600 85 Street SW	Aspen Landing	53,916	\$16.72	2009	25
Canada Safeway	9737 MacLeod Trail SW	Southland Crossing	44,293	\$13.50	2009	5
	Median	48,668	\$15.00			
	Mean	51,420	\$15.57			
	Weighted Mean	-	\$15.47			

- [35] Included in the chart is data respecting eight leases with start dates ranging from 2009 to 2011. Lease rates range from \$8.40 to \$26.45, with median, mean and weighted mean of \$15.00, \$15.57 and \$15.47 respectively. The analysis, in the Complainant's opinion, suggests a rate of \$15.00 to be more appropriate to this class of property, than the \$18.00 applied by the City.
- [36] Further to this, the Complainant submitted the city of Calgary summary titled "2013 Supermarket Rental rate Analysis" [C-2g; Pg. 5]. It was noted that the 4 leases provided by the City were in fact augmented by a fifth lease (100 Anderson Rd. SE). The lease rates ranged from \$8.40 to \$26.45, with a median lease rate of \$18.50 in support of the assessed \$18.00 typical rental rate.
- [37] The Complainant acknowledged that the five City leases are also included in the Altus analysis. Additionally, the Complainant advised that the lease associated with the Aspen Landing comparable is reported at \$16.72 in their submission, while the City reports it at \$18.50. The Complainant further explained that the discrepancy is due to Altus recognizing an area of free lease space, and grossing up the entire indicated leased area, for a resulting overall rate of \$16.72 psf.

Respondent's Position:

- [38] The respondent referenced the City submission R-1 and more specifically, the rental rate analysis titled "2013 Supermarket Rental Rate Analysis Revised [Pg. 258], as replicated below:

2013 Supermarket Rental Rate Analysis Revised					
Address	Leased Area	Lease Rent Rate	Comm. Date Year	Comm. Date mo.	Lease Term
3625 Shaganappi Tr. NW	43,026	\$8.40	2011	7	10
163 Quarry Park Blvd. SE	45,358	\$26.45	2009	11	20
356 Cranston Rd. SE	41,334	\$19.00	2009	10	20
374 Aspen Glen Ld. SW	53,916	\$18.50	2009	9	25
100 Anderson Rd. SE	76,326	\$15.00	2011	3	5
	3 Yr. Median :	\$18.50			

- [39] The respondent acknowledged that the five leases are also included in the Altus analysis, and that the Aspen Landing lease rate of \$18.50 was different from that of Altus's analysis at \$16.72, for the reasons previously specified.
- [40] With respect to the Altus lease at 70 Shawville Blvd. SE, the Respondent provided a copy of a rent roll [R-1; Pg. 216] indicating a lease start date of 1991. As such, it was the Respondent's opinion that the dated lease be excluded from analysis.
- [41] In referencing [R-1; Pgs. 218-22], the Respondent provided information relative to the Altus lease at 1221 Canyon Meadows Dr. SE., noting that it is a B quality shopping centre, and as such, should not be included with the A's.
- [42] With respect to the Aspen Landing lease, the Respondent advised that the new information came to the City at a very late time (April, 2013), and as such, it was too late to change the data for the current assessment year. The City argues that the ARFI received in 2012 made no reference to the free space alleged to be included in the lease.

Board's Reasons for Decision:

- [43] The Board is in agreement with the Complainant that the 1221 Canyon Meadows Drive SE lease is more representative of an A quality rather than a B quality grocery store and should be included in the A quality group analysis. The substantial renovations, along with classification of the shopping centre itself as an A quality supports the grocery store being an A quality.
- [44] With respect to the 70 Shawville Blvd. SE lease, the Board reviewed the Complainant's lease details [C-3g; Pgs.19 – 22], containing a portion of what was purported to be the original lease document. Indications are that the original lease was for a term of twenty years, commencing February 1, 1991 and ending January 31, 2011. Included also was a 1999 ARFI showing a lease start date of 1991/02/01 with a twenty year term, and a rental rate of \$10.17. The City evidence [R-1; Pg. 216] is a rent roll extract, showing the subject lease as commencing 02/01/91, with an end date of 01/31/16 and a rental rate of \$12.25. Based on the foregoing, it is clear that at some point in time, the lease was renegotiated to a rate of \$12.25 and extended by five years to 01/31/16. The unknown is when did this take place? The Board could find no evidence in support of the \$10.47

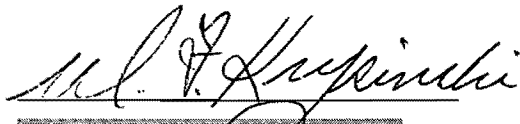
rent represented in the Altus submission. The 2009 ARFI indicates \$10.17 [C-3g; Pg.22], while the City evidence indicates \$12.25 [R-1; Pg. 216]. Based on the conflicting/lack of details, the Board has excluded the lease from the analysis.

- [45] With respect to 9737 MacLeod Tr. SE, the Altus evidence [C-3g; Pgs.23-29] includes a lease document identifying the start date of May 15, 1989, a twenty year term ending May 14, 2009, and a lease rate of \$13.50. Also included were two dated ARFI's from 2007 and 2009, re-iterating the same information respecting lease start/end dates, and rent rate. City evidence included rent rolls dated July 1, 2012 and Sept. 1, 2011. [R-1; Pgs. 232, 233]. Both rent rolls reported lease terms of May 15, 1989 to May 14, 2014, and a rent rate of \$13.50. A further rent roll provided by Altus [C-2g; Pg.46], indicates the lease end date of May 14, 2014. Based on all the information, the Board concludes that a renewal/extension of the lease occurred, and the lease is included in the analysis.
- [46] With respect to the lease at 1600 85 St. SW (Aspen Landing), the Board is of the opinion that the correct rate to be used in the analysis is \$16.72. The lease was included in both parties' analysis, but with differing values. Altus suggests a rate of \$16.72, based on an area of 5,186 square feet paying \$0 rent. When blended with the area paying \$18.50, the net rent to the entire rentable area is \$16.72. The Complainant provided a rent roll dated January 1 to December 31, 2012 [R-1; Pg. 229], which indicates a lease rate of \$18.50. Further to this, Altus provided a letter from the property manager dated April 18, 2013, confirming the lease details, and overall rate of \$16.72 [C-2g; Pg.33]. While the City acknowledged the receipt of the letter, and argued that it came too late in the process to make changes, the Board is not bound by the same restrictions, and acknowledges the rate at \$16.72.
- [47] Considering all the foregoing, the Board summarized the data for analysis as follows:

Grocery Store Leasing Summary - A Quality			
Name	Area	Rate	Annual Rent
Market Mall	43,026	\$8.40	\$361,418.40
Aspen Landing	53,916	\$16.72	\$901,475.52
Deer Valley	55,130	\$15.00	\$826,950.00
Southcentre	76,326	\$15.00	\$1,144,890.00
Quarry Park	45,358	\$26.45	\$1,199,719.10
Southland Crossing	44,293	\$13.50	\$597,955.50
Cranston	41,334	\$19.00	\$785,346.00
	359,383		5,817,755
	mean:	\$16.30	
	median:	\$15.00	
	Weighted Mean:	\$16.19	

- [48] The results indicate a mean rental rate of \$16.30, a median rate of \$15.00 and a weighted mean of \$16.19. It is the Board's opinion that the assessed A quality grocery store rate for the subject property should be reduced to \$16.00.
- [49] On review and consideration of all the evidence before it in these issues, the Board finds that, with respect to:
- **Issue 1: Capitalization Rate:** There was insufficient evidence to vary the assessment.
 - **Issue 2: Grocery Store Rental Rate:** The Board reduces the rental rate to \$16.00 psf.
- [50] The assessment is reduced to **\$39,410,000.**

DATED AT THE CITY OF CALGARY THIS 4th DAY OF October 2013.


Walter F. Krynski
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:****NO. ITEM**

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|---------|----------------------------------------------------------------------|
| 1. C1 | Complainant Disclosure |
| 2. R1 | Respondent Disclosure |
| 3. C2 | Complainant 2013 Cap Rate=Community/Neighbourhood Appendix (Part I) |
| 4. C3 | Complainant 2013 Cap Rate=Community/Neighbourhood Appendix (Part II) |
| 5. C4 | Complainant Shopping Centre- -2013 Cap Rate (Part I) |
| 6. C5 | Complainant Shopping Centre- -2013 Cap Rate (Part II) |
| 7. C6 | Complainant 2013 ARB reference Appendix |
| 8. C7 | Complainant 2013 ARB Cap Rate Rebuttal Appendix |
| 9. C2g | Complainant 2013 Appendix A=Grocery |
| 10. C3g | Complainant 2013 Supermarket Rebuttal Appendix |

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

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Neighbourhood/Community Shopping Centre	<ul style="list-style-type: none"> • Capitalization Rate • Grocery store Rental Rate 	