



## **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:**

**698000 Alberta 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: 054015722**

**LOCATION ADDRESS: 335 36 ST NE**

**FILE NUMBER: 73260**

**ASSESSMENT: \$43,570,000**

This complaint was heard on the 13th 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 ten buildings that were constructed between 1979 and 1992. The buildings range in assessed size from 2,113 square feet (sf) to 178,366 sf and quality ratings from C+ to A-. The buildings are situated on an assessable land area of 1,034,834 sf.

[3] The subject is assessed using the Income Approach to value by applying market net rental rates to the various sub-component spaces of each building. With consideration given for allowances of vacancy rates, operating costs and non-recoverable rates, a net operating income (NOI) of \$3,277,450 is calculated. The NOI is capitalized for assessment purposes using a 7.00% capitalization rate (cap rate).

**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 the PAD restaurant space should be adjusted to \$25.00 per sf from the assessed \$31.00 per sf.

**Complainant's Requested Value: \$38,550,000**

**Board's Decision:**

[5] The complaint is rejected and the assessment is confirmed at \$43,570,000.

**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 119 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 686 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 AAAVG 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 the PAD restaurant space should be adjusted to \$25.00 per sf from the assessed \$31.00 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 rent roll of the subject indicating that the three PAD restaurant spaces (Red Lobster, Olive Garden and The Keg) had lease rates of \$42.28, \$21.05 and \$27.00 per sf, with a resulting median of \$27.00 per sf. The respective lease start dates were January 1, 2011, February 1, 2008 and January 1, 2010. The PAD restaurant spaces were assessed with quality ratings A-.

[39] A copy of the Respondent's 2013 PAD Restaurant Rental Rate Analysis for "A", "B" and "C" quality PAD restaurant spaces.

[40] Copies of the Respondent's Property Assessment Summary Report (PASR) dated December 31, 2012 of the respective PAD restaurant spaces that were included by the Respondent in his 2013 PAD Restaurant Rental Rate Analysis. The copies were intended to support the fact that the Respondent was inconsistent in its quality ratings when comparing a property in the rental rate analysis to the respective PASR.



**Respondent's Position:**

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

[42] An Assessment Request For Information (ARFI) dated May 4, 2012 indicating that the 3 PAD restaurant spaces of the subject had a lease rates and lease start dates as indicated in the Complainants rent roll documentation referenced above.

**CARB Findings:**

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

[44] That the Olive Garden lease rate of \$21.05 per sf is a dated (February 1, 2008) lease as referenced by documentation provided by both parties.

[45] That the most recent lease rate negotiated January 1, 2011 does not support the Complainant's requested \$27.00 per sf assessed rental rate.

**Board's Reason for Decision:**

[46] 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.

[47] 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.

[48] The Respondent's 2013 PAD Restaurant Rental Rate Analysis is accepted by the CARB as no alternative analysis was done by the Complainant. Moreover, the median lease rate of the two most recent leases of the subject's PAD restaurant sites (Red Lobster and The Keg) does not support the Complainant's requested assessed rental rate.

DATED AT THE CITY OF CALGARY THIS 20<sup>th</sup> DAY OF September 2013.



**Presiding Officer**

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

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. C3	Complainant Rebuttal
4. C4	Complainant Disclosure
5. 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.*

**(For MGB Office Only)**

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