



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:

Loblaw Alberta Inc.
(as represented by Altus Group Limited), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER
P. Charuk, BOARD MEMBER
K. Farn, 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: 200293173

LOCATION ADDRESS: 5251 COUNTRY HILLS BV NE

FILE NUMBER: 73687

ASSESSMENT: \$22,100,000

This complaint was heard on the 17th day of September, 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:

- *B. Neeson*
- *K. Fong*

Appeared on behalf of the Respondent:

- *B. Thompson*

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 community shopping centre. According to the information provided, the property contains three buildings that were constructed in 2003, have an assessed total size of 152,158 square feet (sf) and a quality rating of A-. The buildings are situated on an assessable land area of 601,722 sf.

[3] The subject is assessed using the Income Approach to value by applying a market net rental rate of \$10.00 per sf to the retail anchor (Big Box) greater than 80,000 sf space, \$2.00 per sf to the mezzanine space and \$45,000 to the gas bar. Providing for allowances of vacancy, operating and non-recoverable costs, a net operating income (NOI) of \$1,547,522 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 rental rate for the retail anchor (Big Box) of greater than 80,000 sf space should be adjusted to \$8.00 per sf from the assessed \$10.00 per sf.

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

Board's Decision:

- [5] The complaint is rejected and the assessment is confirmed at \$22,100,000.

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 rental rate for the anchor (Big Box) of greater than 80,000 sf space should be adjusted to \$8.00 per sf from the assessed \$10.00 per sf.

Complainant's Position:

[7] The Complainant provided a 101 page disclosure document and a 183 page disclosure document that were entered into the hearing as "Exhibit C1" and "Exhibit C2" respectively. The Complainant, along with Exhibits C1 and C2, provided the following evidence and argument with respect to this issue:

[8] A table of 8 retail anchor spaces with areas between 82,687 and 158,022 sf, comparing respective lease rental rates. The retail anchor spaces had quality ratings ranging from C+ to A2. The comparables used included all five comparables used by the Respondent and included 4 community shopping centres, 3 power centres and a regional shopping centre. Lease rates varied from \$4.60 per sf to \$14.50 per sf with a median lease rate of \$7.74 per sf.

[9] Supporting documentation of the 8 retail anchor comparables including rent rolls and assessment information of the following properties:

- a) The Wal-Mart at the Deer Valley Shopping Centre, a Community Shopping Centre with a lease rate of \$4.60 per sf and a lease start date of September 23, 2011.
- b) The Target at the Signal Hill Shopping Centre, a Power Centre with a lease rate of \$8.00 per sf and a lease start date of May 1, 2011.
- c) The Target at the Shawnessy Shopping Centre, a Power Centre with a lease rate of \$7.00 per sf and a lease start date of March 25, 2011.
- d) The Canadian Tire at the Beacon Hill Shopping Centre, a Power Centre with a lease rate of \$14.50 per sf and a lease start date of March 5, 2008.
- e) The Wal-Mart at the Deerfoot Outlet Mall, a Regional Shopping Centre with a lease rate of \$6.85 per sf and a lease start date of January 29, 2004.
- f) The Wal-Mart at the Westbrook Mall, a Community Shopping Centre with a lease rate of \$7.47 per sf and a lease start date of December 1, 2003.

- g) The Wal-Mart at the Royal Oak Shopping Centre, a Community Shopping Centre with a lease rate of \$10.00 per sf and a lease start date of October 2, 2003.
- h) The RONA at the Creekside Shopping Centre, a Community Shopping Centre with a lease rate of \$14.50 per sf and a lease start date of November 24, 2007. The Complainant argued that this space has been vacant since July, 2012 and should arguably be excluded from the lease rate analysis.

[10] Lease rate analyses and respective assessment information showing the Respondent has been inconsistent in its assessment approach. The Complainant provided lease rate analyses of PAD restaurants, supermarkets and banks that were often based on a city-wide analysis, ignoring whether or not they were in regional malls or enclosed shopping centres. The Complainant argued that in order to be consistent the Deerfoot Outlet Mall and the Westbrook Mall should be included in the Respondent's development of assessment lease rates applied to retail anchor (Big Box) of greater than 80,000 sf.

Respondent's Position:

[11] The Respondent provided a 494 page document that was entered during the hearing as "Exhibit R1". The Respondent, along with Exhibit R1, provided the following evidence and argument with respect to this issue:

[12] A table of 5 Big Box spaces with areas between 95,423 and 132,228 sf, comparing respective lease rental rates. The comparable spaces included 3 power centres and 2 community shopping centres. The comparable spaces were all used by the Complainant in his analysis but excluded the Complainant's Deer Valley Community Shopping Centre, the regional Deerfoot Outlet Mall and the Westbrook Community Shopping Centre. Lease rates varied from \$7.00 per sf to \$14.50 per sf with a median lease rate of \$10.00 per sf.

[13] A table of 2013 assessment equity comparables of over 80,000 sf. The table listed 42 equity comparables that were assessed at a lease rate of \$10.00 per sf, like the subject.

[14] Lease information and correspondence on the following Big Box comparables:

- a) The Target at the Signal Hill Shopping Centre, a Power Centre with a lease rate of \$8.00 per sf and a lease start date of September 8, 1997. The Respondent argued that the lease was assigned to Target from Zellers when Target took over Zellers properties.
- b) The Target at the Shawnessy Shopping Centre, a Power Centre with a lease rate of \$7.00 per sf and a lease start date of March 25, 1996. The Respondent argued that the lease was assigned to Target from Zellers when Target took over Zellers properties.

[15] A copy of a September 23, 2011 Assignment and Assumption of Lease agreement between Zellers and Wal-Mart at the Deer Valley Community Shopping Centre. The assignment indicated that Wal-Mart had assumed a lease dated November 27, 1981, indicating that the \$4.60 lease rate is dated.

[16] A Cushman & Wakefield listing indicating that RONA is asking \$14.72 per sf in an attempt to sublet the property it vacated. An email to Ms. Thompson from BCA Appraisers indicating that, although vacated RONA lease is still in effect.

CARB Findings:

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

[18] That the retail anchor comparable at the Deer Valley Shopping Centre is dated as evidenced by the Respondent's copy of the lease assignment between Zellers and Wal-Mart.

[19] That the retail anchor comparables at the Signal Hill Shopping Centre and the Shawnessy Shopping Centre are dated as evidenced by the Respondent's copy of the lease assignments between Zellers and Target.

Board's Reason for Decision:

[20] The CARB finds that the leases at the Deer Valley Shopping Centre, the Signal Hill Shopping Centre and the Shawnessy Shopping Centre were all dated leases involving lease assignments from old Zeller's properties. Ignoring the Zeller's leases, the \$10.00 assessment lease rate is supported by the remaining retail anchor comparables. Moreover, the most recent lease rates involving the RONA property and the Canadian Tire property show that lease rates are trending upward beyond the current assessment rate.

DATED AT THE CITY OF CALGARY THIS 21 DAY OF October 2013.



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. 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)

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