



**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:

**CP REIT ALBERTA PROPERTIES LIMITED**  
**(as represented by Altus Group Limited)**

**COMPLAINANT**

and

**THE CITY OF CALGARY**

**RESPONDENT**

before:

**T. SHANDRO, PRESIDING OFFICER**  
**J. RANKIN, BOARD MEMBER**  
**A. MACIAG, 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 2014 Assessment Roll as follows:

**ROLL NUMBER: 085128403**

**LOCATION ADDRESS: 5858 Signal Hill Centre SW**

**FILE NUMBER: 74108**

**ASSESSMENT: \$21,920,000**

This complaint was heard on June 10, 2014, 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, Agent, Altus Group Limited

Appeared on behalf of the Respondent:

- C. Yee, Assessor, The City of Calgary

**Procedural or Jurisdictional Matters**

[1] There were no procedural or jurisdictional matters arising.

**Property Description**

[2] The subject property is a parcel within Signal Hill Shopping Centre, which is assessed by the Respondent as a power centre.

[3] The subject property was assessed using the income approach. The Respondent used a capitalization rate of 6.00% to calculate the assessed value. The entire site is owner-occupied and is assessed as Big Box with a rental rate of \$10.00 per square foot ("SF").

**Issues**

[4] The Board identified the issue as follows:

1. Did the Respondent use the correct capitalization rate for the subject property?
2. Did the Respondent use the correct rental rate of \$10.00/SF for the Big Box subcomponent?

**Complainant's Requested Value**

[5] In the Complaint Form, the Complainant requested a reduced assessment of \$18,300,000. At the hearing the Complainant amended the requested value to \$18,490,000.

**Board's Decision**

[6] The Board confirms the assessment of the subject property to \$21,920,000.

**Complainant's Position***Capitalization Rate*

[7] Regarding the issue of the capitalization rate, disclosure and argument was carried over by the Complainant from CARB 75557P-2014, because this file included an identical issue.

[8] The Complainant provided an analysis of capitalization rates for power centres in the City of Calgary, which can be summarized as follows.

[9] There have been only four sales within power centres, all of which took place in 2012 in the Crowfoot Power Centre in the northwest of the City of Calgary:

(a) 20/60 Crowfoot Cr NW, on April 30, 2012, for \$31,250,000, which resulted in a capitalization rate of 6.78% ("Crowfoot Village");

(b) 140 Crowfoot Cr NW, on May 28, 2012, for \$35,500,000, which resulted in a capitalization rate of 5.13% ("Crowfoot Corner");

(c) 850 Crowfoot Cr NW, on May 30, 2012, for \$4,750,000, which resulted in a capitalization rate of 6.03% ("Community Natural"); and

(d) 155 Crowfoot Way NW, on June 26, 2012, for \$5,980,000, which resulted in a capitalization rate of 8.60% (the "Harper's Tire").

[10] The Complainant further argued that when an analysis includes very few properties, it is proper to increase the scope of the analysis by geography or by time. In this case, the Complainant included what it called an investment-grade market indicator, which was a sale in 2011 of the Sunridge Sears building at 3320 Sunridge Way NE. The Complainant acknowledged that this building was not a power centre, but that the capitalization rate of 6.55% should be considered in the analysis of power centre capitalization rates because of its similarity to power centres.

*Big Box Rental Rate*

[11] Because the subject area is owner-occupied and therefore no rent being paid, the Complainant submitted that the closest comparable is the Zellers building next door, which has a rental rate of \$8.00/SF. The lease was taken over by Target, and is now operating as a Target.

[12] The Complainant also provided a rental rate analysis for Big Box sites in power centres. It included the following six sites:

(a) The Target in Shawnessy Towne Centre, with a lease rate of \$7.00/SF for a five year term commencing May 2011;

(b) The Canadian Tire in Beacon Hill Centre, with a lease rate of \$14.50/SF for a 20 year term commencing March 2008;

(c) The Walmart in Deerfoot Mall, with a lease rate of \$6.85/SF for a 20 year term commencing January 2004;

(d) The Walmart in Westbrook Mall, with a lease rate of \$7.47 for a 20 year term commencing December 2003;

(e) The Walmart in Royal Oak Centre, with a lease rate of \$10.00 for a 20 year term commencing October 2003; and

(f) The aforementioned Target next door to the subject property in Signal Hill/Westhills, with a lease rate of \$8.00/SF for a 20 year term commencing September 1997.

[13] The Complainant's analysis calculated a median rate of \$7.74/SF and a mean of \$8.97/SF.

[14] Regarding the two Walmarts in Deerfoot Mall and Westbrook Mall, the Complainant highlighted the similarities between these locations and similar locations Walmarts have in power centres. For example, the operating hours of the Walmarts are different from the operating hours of the malls in which they are located.

[15] The Westbrook Walmart is connected distinctively by a long hallway, which is different than the way in which anchor tenants are usually connected to regional malls.

[16] The Deerfoot Walmart is a separate, free-standing building, and not within the Mall. The building, constructed in 2003, is very similar to the way Walmarts in power centres would be expected to appear, such as the Walmart in Beacon Hill.

[17] When asked why Sears, another Big Box anchor tenant in Deerfoot Mall, should not be included in the analysis, the Complainant replied that the Sears had two floors and was distinguishable from a power centre Big Box.

## **Respondent's Position**

### *Capitalization Rate*

[18] Regarding the issue of the capitalization rate, disclosure and argument was carried over by the Respondent from CARB 75557P-2014, because this file included an identical issue.

[19] The Respondent's analysis of capitalization rates for power centres agreed with the inclusion of Crowfoot Village, Crowfoot Corner and Community Natural in the calculation of a capitalization rate for assessing power centres. The Respondent however disagreed with the inclusion of the Harper's Tire sale.

[20] The Respondent argued that the Harper's Tire sale was not arms-length and therefore should not be included in the analysis. The two companies involved in the transaction were Village Motors Ltd. ("Village") and Telsec Property Corporation ("Telsec"). Each have sole directors: Gerry Wood for Village and Richard Van Grieken for Telsec. The Respondent's research indicated that Messrs. Wood and Van Grieken have both served as directors of a separate corporation not involved in the transaction, Mac73 Ltd. The Respondent argued there was at some time a business relationship between these two men and, therefore, Telsec and Village as well. As such, the transaction should not be included in the capitalization rate analysis.

[21] The Respondent further disagreed with the inclusion of Sunridge Sears building, as the building is not a power centre.

### *Big Box Rate*

[22] The Respondent disagreed with the inclusion of the two Walmarts in Deerfoot Mall and Westbrook Mall. The Respondent claimed that those two locations are not power centres but instead regional malls, and therefore should not be included in an analysis of Big Box rates in a power centre. The two Walmarts do not act as stand-alone locations, but instead act as anchors to the regional malls.

[23] The Respondent highlighted that the three Walmarts in the Complainant's analysis

involved lease terms which all commenced within months of each other, between October 2003 and January 2004. Yet the lease rate for the Walmart within the Royal Oak Centre, a power centre, has a lease rate of \$10.00/SF and the Walmarts in the regional malls have rates of \$6.85/SF and \$7.47/SF. Why would Walmart, the Respondent asked, agree to a higher rate in the power centre?

[24] The Respondent further provided its own analysis which included an additional site, a Rona on Symons Valley Blvd NW (the "Creekside Rona") which has a rental rate of \$14.50 for a 20 year term commencing November 2007.

[25] The Respondent's analysis calculated a mean rate of \$10.00/SF, which the Respondent said indicated the assessed rate of \$10.00/SF was correct.

### **Rebuttal**

[26] The Complainant provided a rebuttal regarding the inclusion of the Creekside Rona. The Complainant provided information that the Creekside Rona may now be vacant. First, the Complainant provided a copy of the Creekside rent roll which indicated in handwriting (a) that the landlord considered the Rona to be "now vacant", and (b) on the second page that "Rona vacated premises on Jun 24/12". Second, undated email correspondence from someone in commercial sales at Rona forwarded to the landlord on May 22, 2012, which stated that Rona was closing the Creekside location on June 24, 2012. Third, the Complainant provided information from Rona's 2014 business assessment for the Creekside Rona indicating Rona was not operating at that location.

[27] The Complainant argued that the location was closed by Rona because it was not economically viable with the fixed cost of \$14.50/SF. Therefore, the Complainant argued that \$14.50/SF was not a rate which was representative of typical market conditions, pursuant to s. 2(c) of *Matters Relating to Assessment and Taxation Regulation*, Alta. Reg. 220/2004.

### **Reasons for Decision**

#### ***Capitalization Rate***

[28] The Board determined that the Harper's Tire sale was in fact arms-length. Whether Messrs. Van Grieken and Wood have ever served as directors on the board of another corporation does not make the relationship between Village and Telsec nonarms-length. The evidence provided by the Respondent indicates that the ownership and the directorship of the two corporations is completely separate.

[29] However, the Board determined that the Harper's Tire sale should not be included in the capitalization rate analysis for power centres for a different reason. At the time of the sale, the building was empty and without tenants for a significant period of time. The Board therefore determined there was insufficient information to agree with the Complainant's calculation of the capitalization rate of 8.60% for this property.

[30] Analysis of the other three properties confirmed the capitalization rate used in the assessment of the subject property, 6.00%.

#### ***Big Box Rental Rate***

[31] To determine the correct rental rate for Big Box in a power centre, there are two separate questions for the Board to determine. First, should the two Walmarts in Deerfoot Mall

and Westbrook Mall be included in a rate analysis? Second, should the Creekside Rona be included?

[32] The Board determined that the Walmarts in the regional malls, Deerfoot Mall and Westbrook Mall, should not be included in a lease analysis for Big Box locations in power centres. The information before the Board indicated they were sufficiently distinguishable at this time from Big Box anchor tenants in power centres. In particular, the Board noted the difference between rates in Royal Oak (\$10.00/SF for a lease commencing October 2003) and the Deerfoot Mall and Westbrook Mall (\$6.85/SF and \$7.47/SF, respectively, for leases commencing December 2003 and January 2004). While the Royal Oak location was more recently constructed, there was insufficient information to determine that factor alone contributed to the difference in rates. On a balance of probabilities, the Board determined that the Walmarts in Deerfoot and Westbrook were sufficiently distinguishable and should not be included in the rate analysis for the subject property.

[33] Regarding the Creekside Rona, the Board would agree with the Complainant's argument if only Rona was no longer continuing to pay its lease for this location. Currently however Rona is paying its lease. With the information before the Board at this time, this indicated that the lease is a market lease. That is, the Board distinguished between (a) whether the business was operating and whether Rona should be paying business tax for the location, and (b) whether the lease was an indication of a market rate.

[34] The Board therefore determined that the Walmarts in Deerfoot Mall and Westbrook Mall should be excluded and that the Creekside Rona should be included. That resulted in a determination that the information provided by the parties indicated that the assessed rate used by the Respondent for Big Box was correct.

*Conclusion*

[35] The Board therefore confirms the assessment value of the subject property at \$21,920,000.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF July 2014.

  
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T. Shandro  
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, parts 1 and 2 | Complainant Capitalization Rate Analysis    |
| 3. C3                | Complainant Rebuttal                        |
| 4. C4                | Complainant PAIR Response                   |
| 5. C5                | Complainant Retail Anchor Analysis          |
| 6. C6                | Complainant Retail Anchor Analysis 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.*

**For Administrative Purposes Only**

| Property Type | Property Sub-Type | Issue  | Sub-Issue |
|---------------|-------------------|--------|-----------|
| Retail        | Power Centre      | Income | Cap Rate  |