



## Calgary Assessment Review Board

### 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:

***Lowe's Companies Canada, ULC (as represented by Altus Group Limited);  
COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

before:

***L. Loven, PRESIDING OFFICER  
A. Blake, BOARD MEMBER  
A. Zindler, 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:

<b>ROLL NUMBER:</b>	<b>201492212</b>
<b>LOCATION ADDRESS:</b>	<b>13417 52 Street SE</b>
<b>FILE NUMBER:</b>	<b>74177</b>
<b>ASSESSMENT:</b>	<b>\$20,660,000</b>

This complaint was heard on 24<sup>th</sup> day of June, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *B. Neeson* *Agent, Altus Group Limited*

Appeared on behalf of the Respondent:

- *G. Good* *Assessor, The City of Calgary*
- *A. Hendrata* *Assessor, The City of Calgary*

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

[1] At the outset of the hearing the parties confirmed they had no objection to the composition of the Board and the Board members confirmed to the parties that they had no bias nor any reason as to why they would not be able to hear the matter before them.

**Property Description:**

[2] The subject property is a big box development containing a single 127,542 square building, known as *Lowe's Home Improvements*. It is part of a power centre known as *South Trail Crossing*, located in the community of McKenzie Towne. The subject property is comprised of sub-component space as follows:

<b>Sub-Component</b>	<b>Area (Sq.Ft)</b>
Big Box 80,001+	127,542

**Issues:**

- [3] Is the assessed capitalization rate correct?
- [4] Is the market net rental rate of big box sub-component space 80,000+ square feet correct?

**Complainant's Requested Value: \$17,150,000**

**Board's Decision:**

[5] It is the decision of the Board to reduce the 2014 assessment of the subject property from \$20,660,000 to \$18,580,000.

**Legislative Authority, Requirements and Considerations:**

[6] The Act reads:

s 1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board 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**

[7] At the outset of the hearing

- 1) The parties requested that argument and evidence be carried forward from File number 74424, where applicable.
- 2) The Respondent raised a potential objection to the Complainant's rebuttal submission regarding capitalization rates; however, during the hearing no further objection was raised, and the submission was entered into evidence.

**Complainant's Position:**

[8] In support of its position, the Complainant submitted a document containing 61 pages, entered into evidence as Exhibit C1 ("C1").

- 1) In support of the requested capitalization rate, the Complainant provided, summarized from C2: four sales comparables located in a development known as *Crowfoot Centre*; and, one market indicator, known as the *Sunridge Sears*.
  - i. The Complainant determined the capitalization rate for each sales comparable by dividing the sale year assessed net operating income ("NOI") by the sale price. The four *Crowfoot Centre* sales ranged from 5.13% to 8.60% and averaged to 6.63% with a median value of 6.41%. The *Sunridge Sears* sales comparable was shown to have a capitalization rate of 6.55%.

- ii. The Complainant provided the 2014 Assessment to Sales Ratios ("ASR"s) for the sales comparables. At a capitalization rate of 6.0%, the ASRs for the four *Crowfoot Centre* sales comparables ranged from 88% to 146%, with an average of 113.41% and a median of 109.81%. At a capitalization rate of 6.5%, the ASRs for the four *Crowfoot Centre* sales comparables ranged from 81% to 135%, and had an average of 104.72% and a median of 101.42 %. The *Sunridge Sears* market indicator was shown to have an ASR of 114%.
  - iii. The Complainant argued that these comparables supported the requested capitalization rate of 6.5% for all power centres, not 6.0% as assessed
- 2) Regarding the rental rate of big box space over 80,000 square feet, the Complainant relied upon six comparables, summarized from C-5, as follows:
- i. The comparables ranged, as follows:
    1. Year of construction – from 1972 to 2008;
    2. Leased area – from 95,423 to 158,022 square feet;
    3. Lease rate- from \$6.85 to \$14.50 per square foot; and
    4. Commencement date: from September 1997 to March, 2008.
    5. Five leases had a 20 year term, and one a five year term.
  - ii. The Complainant gave the median mean and mean of the leased area and lease rate as 127,442 and 125,716 square feet and \$7.74 and \$8.97 per square foot, all respectively. The weighted mean for the lease rate was given as \$8.70 per square foot.
  - iii. The Complainant argued this analysis supported a market value of \$9.00 per square foot.

[9] Regarding the capitalization rate of 6.00%, the Complainant submitted a 157 page document, entered into evidence as Exhibit C2 ("C2"). This information was summarized in C1.

[10] The Complainant submitted into evidence a document, Exhibit C3 ("C3") containing the 2014 lease rent analysis for the *Westhills*, *Crowfoot*, *Country Hills*, *Beacon Hill*, *Shawnessy*, *South Trail*, and *Deerfoot Meadows* power centre sub-components. Where applicable, this information was presented in C1.

[11] The Complainant provided a rebuttal to the Respondent's submission regarding power centre capitalization rate analysis. This submission was entered into evidence as Exhibit C4 ("C4").

- 1) The Complainant showed the 2014 assessment of 155 Crowfoot Way and compared the assessed market rental rates to other properties in the Crowfoot power centre containing the same sub-components to have been assessed at the same market rental rates.
- 2) The Complainant provided the sales record for 20 Crowfoot Crescent NW and an email transmittal. The documents showed that 20/60 Crowfoot Crescent NW and 140 Crowfoot Crescent NW sold at the same time under a single purchase agreement.

- 3) The Complainant provided a 2014 capitalization rate summary, as included in C-1. The summary showed a mean and median of four sales to be 6.63% and 6.41 respectively, plus an investment grade sale at 6.55%.

[12] Regarding the market rental rate of retail anchor, or big box, space 80,000+ square feet, the Complainant submitted into evidence a document containing 107 pages, Exhibit C5 ("C5"). This information was summarized in C1.

### **Respondent's Position:**

[13] The Respondent submitted 172 page document. The document was entered into evidence as Exhibit R1 ("R1").

- 1) The Respondent provided the detailed assessment sheet for the subject property. It showed a big box space, over 80,000 square feet, assessed at \$10.00 per square foot. The resultant net operating income was capitalized at a rate of 6% to give an assessed value of \$20,660,000.
- 2) Aerial photographs of the subject property showed it to be a *Lowe's* located south of 130<sup>th</sup> Avenue and east of Deerfoot Trail.
- 3) The Respondent submitted a table containing five city-wide leases in the big box 80,001+ square foot sub-component. The lease leases ranged as follows: leased area from 9,960 to 132,288 square feet; in lease start date, from September 1997 to March 2011; and in lease rate from \$7.00 to \$14.50 per square foot. Four lease terms were 20 years, and one 5 years. The median of the leases was given to be \$10.00 per square foot and assessed at \$10.00 per square foot.
- 4) The Respondent provided: a real estate listing for a commercial property located at 155 Crowfoot Trail; bird's eye and aerial photographs and maps showing its location; and, exterior photographs of the building located on the subject property.
  - i. The *RealNet* sales report for 155 Crowfoot Trail and 10220 Crowchild Trail NW, showed the vendor as *Village Honda (Village Motors Ltd.)*, and the purchaser as *Telsec Property Corporation*. Corporate searches showed: for the vendor, Gerry Wood as a director; and for the purchaser, Richard Van Grieken, as a director and the corporation as holding shares in *Mac73 Ltd.*. The corporate search for *Mac73 Ltd.* showed both Gerald Wood and Richard Van Grieken as the only two directors.
  - ii. The Respondent submitted the City of Calgary sales questionnaire for 155 Crowchild Way NW. The questionnaire showed the sale to be arms-length, not affected by any conditions, and to have included 10220 Crowfoot Trail NW at \$1,600,000 and 69 Crowfoot Rise NW at \$4,300,000.
  - iii. The 2013 assessment of 155 Crowchild Way NW showed the property assessed at \$3,610,000 based on the cost approach. The 2014 assessment for the same property showed an assessment of \$5,280,000 assessed on the income approach. An amended 2014 property assessment notice showed the market value to be

\$5,980,000. The amendment was shown by the Respondent to have resulted from changes to the rental rates for three sub-components and the capitalization rate from 6.5% to 6.0%. The Respondent explained that these changes were due to assessment of the property as a power centre, not a free-standing building, arising from a change of use by the purchaser.

- 5) The Respondent submitted *CARB 72254P-2013*, regarding the capitalization rate.
- 6) The Respondent provided the detailed assessment for 3320 Sunridge Way NE, known as the *Sunridge Sears* assessed at a capitalization rate of 6.75%; as well as *Altus Group's* appeal for the property, dated January 31, 2014. The excerpts showed 2012 neighbourhood shopping centre capitalization analysis for the property to be 6.55% and 7.40% based on assessed income and typical market income, respectively.
- 7) The Respondent included a sales data sheet of 3320 Sunridge Way NE, dated January 19, 2011. The data sheet showed the price of \$12,600,000 and an assessment of \$13,490,000. The Respondent also included a letter, dated November 29, 2010, from an appraiser confirming the purchase price represented the leased fee value.
- 8) The Respondent provided the 2012 assessment for 8220 Centre Street NE, known as *Co-op Beddington*, noting to the Board the property was assessed as a neighbourhood community shopping centre with a capitalization rate of 7.25%. Similarly, the *Montgomery Square Co-op*, located at 2220 68 Street NE, was assessed using the same capitalization rate.
- 9) The Respondent presented the *RealNet* sales data sheet for 850 Crowfoot Crescent NW, dated May 30, 2014. It showed a price of \$4,750,000 and a 2011 assessment of \$3,390,000.
- 10) Regarding capitalization rate, the Respondent submitted their 2014 power centre capitalization rate study. The study contained sales, located at 20/60 Crowfoot Crescent NW and 140 Crowfoot Crescent NW, dated April 30, 2012 and May 28, 2012, respectively. The sales showed a capitalization rate of 6.78% and 5.13% respectively, with a median of 5.96% and an assessed rate of 6.00%. The 2013 assessments of these properties showed a capitalization rate of 6.25%.

#### **Board's Reasons for Decision:**

[14] The Board recognizes that both parties had a limited number of sales to rely upon to determine a capitalization rate for power centres. That given, the Board finds the following in respect to power centre capitalization rate:

- 1) Both parties relied upon the assessed NOI of the sales provided;
- 2) Both parties relied upon the sales of 20/60 Crowfoot Centre NW and 140 Crowfoot Centre NW;
- 3) The sale of 850 Crowfoot Crescent, presented by the Complainant supports the assessed capitalization rate of the subject property at 6.00%.
- 4) Little reliance can be placed on the sale of 3320 Sunridge Way NE,

presented by the Complainant as an investment grade market indicator at 6.55%, as it is classified as a neighbourhood centre, not a power centre, and was used in the 2013 neighbourhood capitalization rate study by the Respondent;

- 5) The sale at 155 Crowfoot Way NW, presented by the Complainant, assessed as a power centre, was shown by the Complaint to have been equitably assessed as in comparison to other properties in the *Crowfoot* power centre. Although its 2014 assessment of \$5,980,000 exceeds that of its June 2012 allocated sale by almost \$2 million, the Board finds that this sale may be suspect in that:
  - i. it was part of a sale that included two other properties;
  - ii. The property had been previously marketed, but was not on the market at the time of sale; and
  - iii. the parties were known to each other, and may share directorship in a corporation whose shares are held by the purchaser.
- 6) The assessed capitalization rate of 6.00%, as determined by the Respondent, is based on the median of two values, 6.78% and 5.13%; however, a sale of 850 Crowfoot Crescent NW at 6.03% supports the assessed capitalization rate of 6.00%.

[15] Regarding the rental rate of power centre space, the Board finds the Respondent has determined rental rates by analyzing leases on a per power centre basis, for sub-components smaller than 14,000 square feet, as being most reflective of market rent. Where there are four or more leases per sub-component, for sub-component space less than 14,000 square feet, the Respondent has applied a 30 month rule, sometimes extending it to 48 months; however, in sub-components where there are fewer leases, the Respondent has included older leases (for sub-component space less than 14,000 square feet), and city-wide (for sub-component space larger than 14,000 square feet). The Board, based on consistency of approach, accepts that any and all valid leases should be considered to determine market rent for any given sub-component. That said,

- 1) Given the limited number of leases of 80,000+ square foot retail anchors, and the Board's observation that there does not appear to be correlation between lease rate and location with regards to the type of development in this sub-component, the Board finds limiting the available valid leases of this type of space by excluding regional malls and enclosed neighbourhood centre to be artificially restrictive at best.
- 2) Therefore, The Board finds the 2014 retail anchor lease analysis for greater than 80,000 square foot space, prepared and submitted by the Complainant, containing six leases that have a median of \$7.74 per square foot, to be more reflective of market than the 2014 big box lease analysis, prepared and submitted by the Respondent, containing five leases that have a median of \$10.00 per square foot.
- 3) Furthermore, the Board finds that the parties relied upon four of the same leases, and the median of all seven leases is \$8.00 per square foot, giving additional support to the Complainant's requested lease rate of \$9.00 per square foot.

[16] Based on its consideration of the foregoing the Board: confirms the assessed capitalization rate of 6.00%; and, reduces the rental rate of big box space over 80,000 square feet from \$10.00 to \$9.00 per square foot. In summary, the Board revises the value of the subject property to be as follows:

**Potential Net Income**

Sub Component	Area (Sq.Ft)	Rate	Total
Big Box 80,000+	127,542	\$ 9.00	\$ 1,147,878
Total	127,542		<b>\$ 1,147,878</b>

**Effective Net Income**

Less Vacancy (1%)	\$ 11,479
	<b>\$ 1,136,399</b>

**Net Operating Income**

Less Vacant Space Shortfall (\$8.00)	\$ 10,203
Less Non Recoverables	\$ 11,364
	<b>\$ 1,114,832</b>

**Market Value**

Capitalization Rate (6.00%)	\$ 18,580,531
Value	<b>\$ 18,580,000</b>

DATED AT THE CITY OF CALGARY THIS 7 DAY OF August 2014.



L.R. Loven

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. R1	Respondent Disclosure
3. C2	Complainant Disclosure
4. C3	Complainant Disclosure
5. C4	Complainant Disclosure
6. C5	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.*