



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:

***Westfield Southwood Corner Ltd. (Represented by
Fairtax Realty Advocates Inc.), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
D. Julien, BOARD MEMBER
J. Mathias, 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:	129052197
LOCATION ADDRESS:	10233 Elbow Drive SW, Calgary AB
FILE NUMBER:	74772
ASSESSMENT:	\$31,120,000*

***Complaint filed on original 2014 assessment of \$30,600,000**

This complaint was heard by a Composite Assessment Review Board (CARB) on the 30th day of July, 2014 in Boardroom 11 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- S. Storey *Agent, Fairtax Realty Advocates*
- B. Boccaccio *Agent, Fairtax Realty Advocates*

Appeared on behalf of the Respondent:

- C. Yee *Assessor, The City of Calgary*

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

[1] The first \$30,600,000 assessment notice was dated January 3, 2014. The \$31,120,000 amended assessment notice was dated January 24, 2014. The Complainant had no recollection of receipt of the amended notice and on February 25, 2014, the Complainant's agent filed the complaint documents and disclosure evidence pursuant to the first assessment. Notwithstanding the increase in the amount, the Complainant had no new issues and was prepared to proceed with the filed evidence. The Respondent had no objection to proceeding to hear evidence and argument on the issues related to the original assessment. The CARB determined that the hearing would proceed with the Complainant addressing evidence and argument related to the original assessment and the Respondent addressing those issues from the evidence in Exhibit R1.

[2] There were no jurisdictional matters to be decided.

Property Description:

[3] The property that is the subject of this assessment complaint is Southwood Corner, a neighbourhood shopping centre located in the Southwood residential community of southwest Calgary. In the mid-1960's, a freestanding department store was constructed on the 17.22 acre land parcel. In 1992, the department store was converted and expanded substantially into a multi-tenant retail centre that contained a total of 112,335 square feet of rentable area. The site is not flat and level so the shopping centre configuration is not typical.

[4] The amended assessment came about by the reallocation of 3,868 square feet of floor space from the "supermarket" component to the "CRU 2,501-6,000 sq-ft" component. This increases the rental rate on that space from \$13.00 to \$24.00 per square foot. For other tenancies in the centre, rental rates range from \$13.00 per square foot (supermarket) to \$35.00 per square foot (bank). One 11,813 square foot area labelled "poor retail location," has a \$10.00 per square foot rent rate applied to it. That space, which is located at the rear of the main

shopping centre building, is occupied as offices by a Government of Alberta agency. After deductions for vacancy (1.0 to 6.0 percent), operating expenses on vacant space and a 1.0 percent non-recoverable expense allowance, the resulting net operating income of \$2,100,610 is capitalized at a rate of 6.75 percent to yield the \$31,120,000 assessment.

Issues:

[5] The Assessment Review Board Complaint form was filed on February 25, 2014 by Fairtax Realty Advocates Inc. on behalf of Westfield Southwood Corner Ltd., the "assessed person." Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount".

[6] In Section 5 – Reason(s) for Complaint, the Complainant stated that the grounds for the complaint were that the market rents on several units were incorrect, the supermarket is not an anchor and should therefore have a higher vacancy rate and the capitalization rate should be increased to 7.0 percent.

[7] At the hearing, the Complainant pursued the following issues:

- 1) The assessment designates the supermarket space occupied by "The Box" grocery store as anchor tenant space which receives only a 1.0 percent vacancy allowance whereas the remainder of the tenant space gets a 6.0 percent vacancy allowance. The existing grocery store is not an anchor tenant and should be included with all other space that receives the 6.0 percent allowance;
- 2) The grocery store market rent should be set at \$11.00 per square foot;
- 3) The junior big box space occupied by Fabricland should have a market rent of \$12.00 per square foot rather than \$15.00 per square foot.

Complainant's Requested Value: \$28,920,000

Board's Decision:

[8] The CARB reduces the assessment to \$30,070,000.

Legislative Authority, Requirements and Considerations:

[9] The CARB is established pursuant to Part 11 (Assessment Review Boards), Division 1 (Establishment and Function of Assessment Review Boards) of the Act. CARB decisions are rendered pursuant to Division 2 (Decisions of Assessment Review Boards) of the Act.

[10] Actions of the CARB involve reference to the Interpretation Act and the Act as well as the regulations established under the Act. When legislative interpretation is made by the CARB, references and explanations will be provided in the relevant areas of the board order.

Position of the Parties**Complainant's Position:**

[11] The Complainant's original disclosure evidence is set out in Exhibit C1 and rebuttal evidence is contained in Exhibit C2.

[12] This shopping centre does not have a typical anchor tenant. The unit shown on the assessment as supermarket (18,831 square feet in the first assessment and 14,963 square feet in the amended assessment) was leased to Giant Tiger in September 2010 but that store was not successful so the space was subleased to Loblaw in January 2013. Loblaw operates a discount grocery store known as "The Box" that occupies only a portion of the original 18,831 square foot unit. Neighbourhood shopping centres are typically anchored by a major tenant such as a supermarket which will be at least 20,000 square feet in size. That supermarket will have a prominent location within the centre and it will attract shoppers that might also patronize other stores in the centre. In the assessment, the supermarket is allocated only a 1.0 percent vacancy allowance. As a non-anchor tenant unit, this space should have the same 6.0 percent vacancy allowance as all other space in the centre.

[13] The grocery store space is leased at an actual rent rate of \$11.00 per square foot. This rental unit has had the highest rate of turnover in the shopping centre and the current tenant does not occupy the complete unit so the actual rent rate is most indicative of a market rent rate.

[14] Fabricland is a tenant in 14,694 square feet of space. The assessment attaches a \$15.00 per square foot rent rate to units of more than 14,000 square feet. The current lease rate is \$12.00 per square foot which is more indicative of a market rate. For that reason, the rate in the assessment calculation should be \$12.00 per square foot. The actual rents for this and the grocery store space are more reasonable indicators of market rents when the lack of loading bays, the shopping centre age, quality, topography and location are taken into account.

[15] In rebuttal to the Respondent's market rent evidence, the Complainant argued that the comparable lease information pertained to properties that were superior to the subject (newer, superior quality, better location) and therefore require adjustments. Some were not in neighbourhood shopping centres. After adjustments are made, the data supports the rent rates requested by the Complainant.

Respondent's Position:

[16] Evidence of the Respondent is contained in Exhibit R1.

[17] Other than a rent roll and some photographs, the Complainant has provided no evidence to support the position on anchor tenancy or for the requested reduced rents on some tenant unit categories.

[18] The City of Calgary assessment business unit defines a neighbourhood shopping centre as a centre designed to provide convenience shopping for day-to-day needs of consumers in the immediate neighbourhood and is often anchored by a supermarket or drugstore. Another definition included a discount store as a possible anchor.

[19] A lease rate survey of 17 properties showed leases of units from 14,000 to 40,000 square feet in size with rents from \$10.35 to \$32.00 per square foot. The median rate of \$15.00 per square foot is the rate applied to this unit size in assessing "B" quality properties.

[20] Another survey of supermarket rents listed five leases of supermarket stores ranging from 20,000 to 52,465 square feet. Rents from \$12.50 to \$17.00 per square foot produced a median of \$13.50 which is slightly higher than the \$13.00 per square foot rate applied in assessing "B" quality stores.

[21] The assessment on the subject property was complained against in 2013. The issues were that the vacancy rate for the Giant Tiger space should be increased and that the actual rents for both the Giant Tiger and Fabricland spaces should be set at their actual lease rates. The CARB found that the Complainant provided insufficient evidence to support either claim. Existing leases were too dated to be relevant and the Respondent provided evidence that supported the assessed rates.

Board's Reasons for Decision:


[22] The CARB finds that the unit occupied by "The Box" is a grocery store but that store is not that of an anchor tenant. Lease data provided by the Respondent was for stores that are significantly larger in area than the subject unit and the examples were not from "B" quality neighbourhood centres like the subject. If the unit is not classified as anchor space, then the vacancy rate increases to 6.0 percent which is the rate applicable to the remainder of the centre.

[23] The Respondent did not demonstrate how the subject property is comparable to the ones listed in the big box and supermarket rent studies. The Complainant pointed out several dissimilarities including locations on major streets or in power shopping centres. Few if any of the comparables are in neighbourhood shopping centres.

[24] The CARB notes that the Giant Tiger lease set the rent rate at \$11.00 per square foot but that was in 2010 and it was for a larger unit size (18,831 versus 14,963 square feet). The Fabricland lease was dated September 2009 and it called for a lease escalation from \$12.00 to \$13.00 per square foot at the midpoint of its 10 year term. Having regard to the existing leases and the most similar of the comparables put in evidence by the Respondent, the CARB finds that a rent rate of \$12.00 per square foot is applicable to both the "Fabricland" and "The Box" spaces.

[25] The assessment is adjusted by changing the rent rate on the two aforementioned tenant units and standardizing the vacancy rate to 6.0 percent for the entire centre.

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



W. Kipp
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal
4. R2 (Presented at the hearing)	Site Map of Subject Property

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

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	RETAIL	NEIGHBOURHOOD MALL	INCOME APPROACH	RENT RATE VACANCY