



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:

***Oxford Properties Retail Holdings Inc. (As represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***W. Kipp, PRESIDING OFFICER
A. Maciag, BOARD MEMBER
D. Pollard, 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:	130152606
LOCATION ADDRESS:	100 Anderson Road SE, Calgary AB
FILE NUMBER:	75061
ASSESSMENT:	\$453,090,000

This complaint was heard by a Composite Assessment Review Board (CARB) on the 7th day of July, 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:

- *D. Hamilton* Agent, Altus Group Limited

Appeared on behalf of the Respondent:

- *B. Thompson* Assessor – The City of Calgary
- *J. Lepine* Assessor - The City of Calgary

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

[1] This complaint was heard jointly with that of File 75379. The issue of the correct capitalization rate was common to both files. The parties requested that evidence, testimony and argument be heard jointly. The CARB agreed. Each of the files contained in Complainant's and Respondent's disclosure documents were highly similar so the parties covered the materials in detail just once and asked that it be made applicable to both files. File 75379 contained a Complainant's rebuttal document that was common to it and this file 75061.

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

Property Description:

[3] The property that is the subject of this assessment complaint is Southcentre Mall, a regional shopping centre located in southeast Calgary. It is one of three Class "A" malls in Calgary. The two level mall, built in 1974, contains a total area of 880,668 square feet. Three other buildings, constructed in 1974 and 1998, contain a total area of 95,213 square feet, including a 76,326 square foot supermarket. Two department stores, Sears and The Bay, anchor the mall. The shopping centre occupies a 58.20 acre land parcel situated on the north side of Anderson Road and east side of Macleod Trail SE.

[4] For 2014, the property was assessed using an income approach with the following valuation parameters: (Rates vary by space type and size)

Anchor Tenants Rent	Other Tenants Rent	Vacancy Allowance	Operating Costs on Vacant	Non-Recoverable Costs	Capitalization Rate
\$5.00	\$14.50 - \$450.00/SF	1.00% - 4.5%	\$3.00 - \$173.00/SF	4.00%	5.75%

[5] The total assessment is \$453,090,000.

Issues:

[6] The Assessment Review Board Complaint form was filed March 1, 2014 by Altus Group on behalf of Oxford Properties Retail Holdings Inc., the "assessed person." Section 4 – Complaint Information had a check mark in the box for #3 "Assessment amount."

[7] In Section 5 – Reason(s) for Complaint, the Complainant stated numerous grounds for the complaint.

[8] At the hearing, the Complainant pursued the following issue:

- 1) The 5.75 percent capitalization rate used by the Respondent is unsupported and should therefore be increased to 6.0 percent.

Complainant's Requested Value: \$434,210,000

Board's Decision:

[9] The capitalization rate is increased to 6.00 percent and the assessment is reduced to \$434,210,000.

Legislative Authority, Requirements and Considerations:

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

[11] Actions of the CARB involve reference to the Interpretation Act and the Municipal Government 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.

Positions of the Parties

Complainant's Position:

[12] The Complainant's position is contained in Exhibit C1, filed with the CARB and the Respondent on May 23, 2014. Rebuttal to the Respondent's evidence is in Exhibit C2 which was filed on June 30, 2014. Exhibit C2 is common to this file as well as File 75379.

[13] Southcentre Mall is a Class "A" regional shopping centre. There have been no recent sales of Class "A" regional centres. The capitalization rate for application in assessments of all regional shopping centres was extracted from one 2012 sale. That sale was of a Class "B" centre that transferred in June 2012. Marlborough Mall sold for \$137,000,000, indicating a 6.71 percent capitalization rate. From that sale, the Respondent determined that Class "B" regional centres should be assessed for 2014 using a 6.50 percent capitalization rate while Class "A" properties would have a 5.75 percent rate.

[14] For the 2013 tax year (July 1, 2012 valuation date), the Respondent also relied upon this sale and set the capitalization rate for Class "B" regional malls at 6.75 percent and "A" class centres at 6.00 percent. Notwithstanding that there were no new sales, the 2014 tax year (July 1, 2013 valuation date) assessments were based on the same 2012 sale but the capitalization rates were reduced.

[15] The Respondent, in responses pursuant to requests under Section 299 of the Act and in evidence at this hearing has not provided adequate support for the year over year change in the assessment capitalization rate. The analysis provided by the Respondent set out the details of the Marlborough Mall sale and the 6.71 percent capitalization rate extracted from that sale.

[16] The Respondent's evidence included a table setting out changes in capitalization rates applied in assessing all types of retail properties for the years 2011 to 2014. No details of sales were provided in evidence but some information had been disclosed in the Section 299 response. The Respondent had cited power centres and neighbourhood/community centre sales as being nearest in investment quality to regional centres. Following the Respondent's testimony and evidence, the Complainant presented rebuttal evidence regarding the Respondent's power centre sales and neighbourhood/community centre sales. The Respondent had attempted to show that a general trend towards lower capitalization rates in other shopping centre types was sufficient to warrant a reduction in the regional mall capitalization rates. The Complainant's evidence was that two power centre sales that occurred in early 2012 were the basis of the Respondent's capitalization rate analysis for current assessments. In the neighbourhood/community centre category, one 2012 sale and three 2011 sales were used. The Complainant concluded that since there were no 2013 sales, there was no evidence to support the Respondent's "downward trend" argument.

[17] The Complainant stated that investment market surveys such as those done by CBRE and Colliers are surveys of opinions of some market participants and are not based on market sales. Further, there is no explanation of how those opinions are solicited.

Respondent's Position:

[18] The evidence and argument of the Respondent is contained in the disclosure document labelled as Exhibit R1 which was filed with the CARB and the Complainant on June 23, 2014.

[19] All Class "A" regional malls are assessed for 2014 tax using a 5.75 percent capitalization rate. There have been no recent sales of regional malls but there is evidence to support the position that capitalization rates for retail spaces across subproperty uses have compressed over the one year period between the July 1, 2012 and July 1, 2013 valuation dates.

[20] Retail capitalization rates have compressed over the past several years. The following are capitalization rates used in making assessments of shopping centres:

Valuation Year:	2011	2012	2011 to 2012 Trend	2013	2012 to 2013 Trend	2014	2013 to 2014 Trend
Strip Centre	7.5%	7.5%	↔	6.75%	↓	6.25%	↓
Freestanding	7.5%	7.5%	↔	7.0%	↓	6.5%	↓
Neighbourhood/Community	7.25%	7.25%	↔	7.0%	↓	6.75%	↓
Power Centre	7.25%	7.25%	↔	6.25%	↓	6.0%	↓
"A" Class Regional Mall	6.5%	6.5%	↔	6.0%	↓	5.75%	↓
"B" Class Regional Mall	6.75%	6.75%	↔	6.75%	↔	6.5%	↓

[21] The above chart shows a consistent compression of capitalization rates. The lower capitalization rates must be acceptable to taxpayers because there have been no assessment complaints against assessments on other types of shopping centres except for some power centres and those have mostly been confirmed.

[22] Investment market surveys conducted by CBRE Limited (Q2 2013) and Colliers International (Q3 2013) provide support for the assessed capitalization rates. CBRE showed capitalization rates from 5.00-5.50 percent for regional malls while Colliers showed rates from 5.25-6.00 percent for the combined regional mall and power centre categories. The Respondent had not relied on these surveys in setting capitalization rates but they do tend to support the rates used in assessments.

Board's Reasons for Decision:

[23] The CARB sets the Class "A" regional shopping centre capitalization rate at 6.0 percent.

[24] The Respondent provided details of shopping centre capitalization rates from the 2011 to 2014 assessments but failed to provide sales data for any year to support the contention that capitalization rates had "compressed" over the span of years.

[25] Evidence in the Complainant's rebuttal document showed that two early 2012 sales of power centres (6.78 and 5.13 percent capitalization rates) led to the 6.0 percent rate used in making power centre assessments for 2014. For 2013, the same two sales plus one from December 2010 (6.35 percent capitalization rate) led to a 6.25 percent conclusion. The two 2012 sales occurred within one month of each other but the capitalization rates varied by 1.65 percent. Both properties had similar NOI per square foot of building area (\$34.95 and \$35.66) yet the capitalization rates varied greatly. This unexplained spread confirms the findings of the CARB that a small number of sales (two in this instance) can be unreliable in the determination of such factors as capitalization rates. The CARB finds that this analysis does not confirm a downward trend in capitalization rates.

[26] The same type of analysis was presented for neighbourhood/community shopping centre sales. For 2014, four sales (capitalization rates of 4.83, 6.87, 6.55 and 7.00 percent) led

to an assessment capitalization rate of 6.75 percent. The sale with the lowest rate was a December 2012 sale of a property in southwest Calgary. The other three sales occurred during 2011. The CARB had no evidence before it to confirm that values had changed as dramatically as indicated by the single 2012 sale versus the three 2011 sales. The capitalization rate from the 2012 sale was about two percentage points lower than the rates from the 2011 sales. The price of the 2012 sale amounted to \$503.80 per square foot of building area while all of the 2011 sales were just over \$200 per square foot. With no other supporting information from the Respondent, the CARB did not accept that the 2012 sale at significantly different indicators (capitalization rate and price per square foot) was a market trend for the property type. The Respondent, by including that sale for 2014, adjusted the capitalization by just 0.25 percent.

[27] It follows that a change in capitalization rates for regional shopping centres on a year over year basis without new sales to support the change is unacceptable. Without relevant market evidence, the capitalization rate should have remained the same from one year to the next.

[28] The Respondent applies a hierarchy relationship between shopping centre classes. The single sale of a Class "B" property led to the conclusion that the capitalization rate for "B" centres should be 6.50 percent. For undisclosed reasons, the Class "A" rate was set 0.75 percent lower, at 5.75 percent. The Complainant did not question the amount of the spread and the CARB accepts that there could be a difference.

[29] In conclusion, the CARB did not receive sufficient market evidence to support the Respondent's position that changes in the market brought about a reduction in the Class "A" regional shopping centre capitalization rate from 6.00 percent in 2013 to 5.75 percent in 2014. The only evidence was a table showing changes in the assessed capitalization rates for various types of shopping centres.

[30] The CARB places no weight on the market survey reports that are published by commercial real estate brokerages. These are solicited opinions of some market participants and there are no details as to how the surveys are conducted.

DATED AT THE CITY OF CALGARY THIS 7 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 (Common to Files 75379 & 75061)

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	REGIONAL MALL	INCOME APPROACH	CAPITALIZATION RATE