



## **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:**

***Hortco Developments Inc. (as represented by Avison Young), COMPLAINANT***

**and**

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

**before:**

***J. Fleming, BOARD CHAIR  
D. Morice, BOARD MEMBER  
B. Jerchel, 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: 016213704**

**LOCATION ADDRESS: 87 Crowfoot Way NW**

**FILE NUMBER: 75223**

**ASSESSMENT: \$6,490,000**

This complaint was heard on the 14<sup>th</sup> day of August 2014 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *B. Peacock, Agent, Avison Young Property Tax Services*

Appeared on behalf of the Respondent:

- *S. Turner, Assessor, City of Calgary*

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

- [1] There were no objections to the composition of the panel, and no Board member declared a conflict.
- [2] There were no preliminary matters raised.

**Property Description:**

[3] The property is a strip centre located in the Crowfoot Power Centre. It is termed a B quality development and is comprised of two buildings which together total 9,958 square feet (sf). The property is part of a Direct Control (DC) district, and sits on 1.08 acres of land. The property is assessed on an income basis with a total assessment of \$6,490,000.

**Issues:**

[4] The Complaint form identified a number of issues, but at the hearing the Complainant indicated there would only be one issue.

- 1) Is there sufficient evidence to reclassify the property from Power Centre to a Retail Strip Centre? If there is, then it will be necessary to recalculate the assessment using typical Retail Strip Centre inputs.
- 2) As well, is it fair and equitable to classify the property as a Power Centre when there are at least three similar centres in close proximity to Power Centres that are classed as Retail Shopping Centres?

**Complainant's Requested Value: \$4,590,000**

**Board's Decision:**

[5] The Complaint is denied and the assessment is confirmed at **\$6,490,000**.

**Legislative Authority, Requirements and Considerations:**

[6] The Board derives its authority from the Municipal Government Act RSA 2000 Chapter M-26 (the Act).

[7] More specifically, 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****Complainant's Position:**

[8] The Complainant argued that the subject is not a Power Centre but rather a Retail Strip Centre. It was noted that the subject property is independently owned and as such the owner has no control or influence over the behaviour of any other tenants in the area, a point which they assert is necessary for a property to be termed a Power Centre (Ex. C1, pg 3).

[9] More correctly, the Complainant says the property should be classified as a Retail Strip Centre because it meets the City of Calgary's definition for that type of property. The Complainant also asserts that there are at least three other properties located close to Power Centres that are classified as Retail Strip Centres (C1, pgs. 15 – 26).

[10] They identified the Ranchland's Shopping Centre, and Arbour Lake Strip Centre (both of which are close to the subject property), as well as the Strip Centre on Sierra Morena Blvd. SW which is close to the Westhills/Signal Hills Power Centre.

[11] All three of these Centres are classed as Retail Strip Centres and all are located quite close to a Power Centre. The subject should receive the same classification.

[12] Further, the Complainant pointed out that the Winners/Homesense property in Beacon Hill off Sarcee Tr. is a "true" Power Centre in its opinion because there are several large anchors as well as smaller CRU's that **are on the same roll as the anchor** (emphasis added) (Ex. C1, pg. 29). In the opinion of the Complainant, common ownership is an important determinant to meeting the classification requirements as a Power Centre.

[13] Finally, the Complainant points out that as a Strip Centre, it is necessary to modify the inputs. First of all, the B quality as a Power Centre does not translate well to a Strip Centre

classification, and so the Complainant asks for an A2 quality rating as an equivalent strip centre rating.

[14] The Complainant also suggests the need to modify the rental rates, vacancy rates, operating costs and the capitalization rate as a result of the re-classification. (These changes and the original data are shown in C1, page 10 for the original assessment, and C1 page 33 for the requested assessment.)

[15] The Complainant concluded by saying the request was reasonable, supported by evidence and asked that the assessment be reduced to \$4,590,000.

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

[16] The Respondent advised that the theory behind the classification of a Power Centre is that all tenants in the Power Centre benefit from the locational proximity of a large number of stores. In its opinion and as has been shown through decisions through the years, there is no requirement for common ownership of the entire Power Centre location. That concept is not expressed in any documentation that can be cited (see for instance Ex. C1, pgs 32 and 33).

[17] The Respondent also noted that, in support of its position, a plan of the Beacon Hill Sarcee Tr. Power Centre which showed that there were in fact several titles potentially with different owners, which made up the Centre. The Respondent reminded the CARB that this was one of the Complainant's examples of common ownership. This proved it was not true.

[18] In speaking to the Complainant's comments about the strip centres neighbouring the Power Centres, the Respondent indicated that 87 Crowfoot was located on the interior road which was the only road access to the Power Centre. As such it had very clear exposure to the visitors to the Power Centre.

[19] The Respondent advised that the Ranchlands Centre was across four lanes of traffic, and could only be easily accessed if you were coming down the road it was located on (Ranchlands Blvd. NW). As well, it was located well outside the interior road which was used to access the majority of the Power Centre.

[20] The Arbour Lake property was located quite far along Nose Hill Dr. from the Power Centre, and the Respondent argued there was very little possibility of benefit from the Power Centre because of the location and the distance.

[21] With respect to the Sierra Morena property, the Respondent noted that this property was situated within the neighbourhood and facing the residential development. It was indicated that there was no orientation to the Power Centre. In addition, the Respondent also noted that there were some topographical issues behind the property which limited access and exposure.

[22] In conclusion, the Respondent noted that there were locational and proximity issues with all three of the properties which resulted in the City classifying them as Retail Strip Centres.

[23] Finally, to further address the equity issue, the Respondent provided details of a property of 7,256 sf located quite close to the subject (Ex. R1, pg 57 – 60) which was also classified as a Power Centre.

[24] The Respondent requested confirmation of the assessment.

**Board's Reasons for Decision:**

[25] The CARB considered the evidence.

[26] The CARB agrees with the Respondent that there is no requirement for common ownership for a property to be classified a Power Centre. The Power Centre is defined by the locational and tenant attributes which are summarized best in Ex. R1 pages 32 and 33 under the topic Power Centre. The CARB received insufficient evidence to support the Complainant's request to change the classification based on the matter of common ownership.

[27] The CARB found additional support for this view from reviewing the CARB decisions noted by the Respondent (Ex.R1, page 43 para. 42 and page 49 para. 23) As well, the CARB noted the Respondent showed that the Complainant had not recognized the potential multiple ownership of the Beacon Hill Power Centre.

[28] In the matter of the equity request for the Retail Shopping Centre classification, the CARB reviewed the evidence and rejected the Complainant's Arbour Lake and Sierra Morena comparables. They were not similar to the subject inasmuch as they were not in the Power Centre, and in fact were separated from the Power Centre in one case by distance (Arbour Lake), and in the other case by orientation, location on a side road accessing a subdivision, and topography.

[29] The CARB placed more weight on the Ranchlands Dr. strip centre comparable. It was located quite close to the Crowfoot Power Centre. In the final analysis the CARB accepted the argument of the Respondent that it was located across four lanes of traffic, and would only be seen as associated with a Power Centre by the traffic coming along Ranchlands Dr. From any other direction, the Ranchlands property view would require a look in the opposite direction from the Power Centre.

[30] The CARB found that these two reasons were sufficient to distinguish the Ranchlands centre from the subject which was located right in the heart of the "defined" Power Centre.

[31] As a result, the CARB found all three of these properties as sufficiently dissimilar from the subject to negate a claim of fairness and equity.

[32] Accordingly, the assessment is confirmed as noted above.

DATED AT THE CITY OF CALGARY THIS 16<sup>th</sup> DAY OF September 2014.

  
James Fleming

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

*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 Official Use:*

<b>Subject</b>	<b>Type</b>	<b>Issue</b>	<b>Detail</b>	<b>Sub-Detail</b>
CARB	Retail	Power Centre	Cost/Sales Approach Income Approach	Equity Comparables Lease Rate Vacancy Rate Capitalization Rate