

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

***Bim North Hill Inc, Westpen Properties Ltd
(as represented by Altus Group Limited), COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before

***L. Yakimchuk, PRESIDING OFFICER
B. Jerchel, BOARD MEMBER
J. Pratt, 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: 200063626
LOCATION ADDRESS: 1632 14 Av NW
FILE NUMBER: 75344
ASSESSMENT: \$88,250,000

This complaint was heard on August 20, 2014 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *D. Hamilton, Altus Group*

Appeared on behalf of the Respondent:

- *B. Thompson, City of Calgary Assessor*

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

[1] The Respondent asked that a written surrebuttal to the Complainant's rebuttal be allowed into evidence. This issue was thoroughly addressed in a letter from the Chairman of the Calgary Assessment Review Board to the City Assessor on June 20, 2014. The Composite Assessment Review Board (CARB) panel confirms the words of the letter that "the right of surrebuttal is neither contemplated nor identified under the Act or the ARB's Policy and Procedural Rules." There is no reference to admitting written surrebuttals into evidence in paragraph 8(2)(c) of Matters Relating to Assessment Complaints Regulation, AR 310/2009 (MRAC) nor is there any provision for disclosure of this document. For these reasons the CARB panel would not accept such a document. This CARB panel would have allowed the Respondent to ask questions about the evidence in the rebuttal or otherwise respond to that evidence orally.

[2] On reviewing the rebuttal, the Board found that the records showed it had been received late, and it was confirmed by the Complainant to have been sent late on August 13 rather than August 12. For this reason the rebuttal was not admitted into evidence. Given that no rebuttal was presented, there was no need to consider a surrebuttal.

[3] Neither party objected to any members of the Composite Assessment Review Board panel (the Board).

Property Description:

[4] The subject property, North Hill Shopping Centre, has been assessed as a "B" quality 291,595 square foot (sf) regional mall in the Hounsfield Hts/Briar Hill community. It was constructed in 1958 with the medical dental addition completed in 2000. The property has been assessed using the income approach.

Issues:

[5] Should the capitalization (Cap) rate for this property be increased from 6.50% to 6.75%?

Complainant's Requested Value: \$82,880,000 (revised during the hearing)

Board's Decision:

The Board reduced the assessment to \$82,880,000.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Act RSA 2000 Section 460.1:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider the Act section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in the Act Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or

if the parcel is used for farming operations, agricultural use value

Position of the Parties

Complainant's Position:

[6] Altus Group, on behalf of the Complainant, explained that the assessment for 2014 was based on one market sale from June, 2012. The sale, for Marlborough Mall, was also used for the 2013 assessment but the assessed Cap rate for "B" quality regional shopping centres in 2013 was 6.75% and in 2014 was 6.50%. The actual Cap rate calculated using net operating

income and sale price was 6.71% for Marlborough Mall.

[7] The Complainant presented the documentation provided through a request according to the Act, Section 299(C1 p33-45). The documentation included the 2014 Income Approach Valuation for Sunridge Mall (a "B" quality regional shopping centre), the Regional Mall Capitalization Rate analysis which included only one sale (Marlborough Mall on June 18, 2012), the 2013 Income Approach Valuation for Marlborough Mall and the 2013 Regional Centre Capitalization Rate Summary, which included the Marlborough Mall ("B" quality) sale with a Cap rate of 6.71% and the July 6, 2011 sale of Deerfoot Mall ("C" quality) with a Cap rate of 7.06%.

[8] The Complainant argued that the 2014 analysis used the same sale but the result was a different Cap rate, with no justification for changing that Cap rate from the previous year. The Complainant stated that the documentation included in the Section 299 response did not show how the Respondent had arrived at a lower Cap rate than the year before.

[9] The Complainant concluded that where there are valid sales it is not necessary to use other approaches to finding a Cap rate.

Respondent's Position:

[10] The Respondent, City of Calgary, presented a revised recommended value of \$86,150,000 for the subject property. This was a result of a \$2,100,000 adjustment to the initial assessment, due to a parking correction. The Respondent removed the value for parking attributed to the subject roll as it was accounted for in roll #059231803.

[11] The Respondent argued that although the same June 18, 2012 Marlborough Mall sale was used for both 2013 and 2014 regional shopping centre Cap rate analyses, other market factors had to be taken into consideration. The market was changing and this was reflected in compressing Cap rates. A City of Calgary Retail Capitalization Rates table showed that the typical assessed Cap rates for the city had become lower over the period from 2011 to 2014 for retail properties including strip malls, freestanding retail, neighbourhood/community shopping centres, power centres and regional shopping centres (R1 p23).

[12] The Respondent stated that although there were no 2013 sales in any of the categories, some 2012 sales had occurred after July 1, 2012 and were newly applied in various analyses of other types of retail properties for the 2014 assessments. Sales after July 1, 2011 up to June 30, 2013 were used in calculating the retail Cap rates.

[13] The Respondent argued that when there were not sufficient sales to analyze, market trends and the hierarchy of rates according to improvement quality had to be taken into consideration. Third party analyses were provided to support a decreased value in Cap rates.

Board's Reasons for Decision:

[14] The Board considered the Complainant's argument that the same sale had been used to find a different Cap rate for "B" quality regional malls in 2014 than in 2013. The actual Cap rate was 6.71%.

[15] The Board reviewed the Respondent's argument that City of Calgary assessed Cap rates were compressing in the last four years. The Board found this to be somewhat true,

according to the table provided by the Respondent, but the calculation of the rates was not shown, and no documentation to support these calculations was shown in the Respondent's evidence.

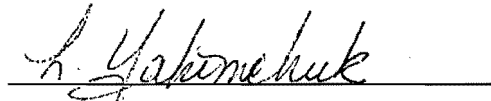
[16] The documentation provided to the Complainant in response to the Section 299 request showed only the calculation based on the Marlborough Mall sale with two income approach valuations and no other support for the assessed Cap rate. The Complainant's understanding of the calculation was based on the approach disclosed by the Respondent, in this case the Cap rate study which included one sale with a Cap rate of 6.71%. The actual 6.71% Cap rate is closer to 6.75% than to 6.50%.

[17] The Board considered the date of the comparable sale: June 18, 2012. This date is very close to the July 1, 2012 start of the current assessment period. The lease is also within the two year period the City of Calgary uses in its analyses for retail properties. The Board agrees with the Respondent that in the absence of recent sales it is difficult to calculate a Cap rate and other market factors should be analyzed. However, the Marlborough Mall sale is still valid for the purposes of the current assessment. It is the best evidence of Cap rates for the assessment period.

[18] For these reasons, the Board accepts the Complainant's request and increases the Cap rate to 6.75%. The Board also accepts the parking rate adjustment of \$2,100,000 requested by the Respondent.

[19] The assessment is reduced to \$82,880,000..

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



L. Yakimchuk

Presiding Officer

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

| NO. | ITEM |
|------------|------------------------|
| 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 office use only:

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|----------|----------|---------------|-----------------|------------|
| A | B | C | D | E |
| CARB | Retail | Regional Mall | Income approach | Cap, Sales |
