



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 (MGA).

between:

***Trinity Properties Alberta Limited (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before

***L. Yakimchuk, PRESIDING OFFICER
P. Cross, BOARD MEMBER
G. Milne, 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: 200768620

LOCATION ADDRESS: 11690 Sarcee Tr NW

FILE NUMBER: 75579

ASSESSMENT: \$27,120,000

This complaint was heard on June 18, 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:

- *K. Fong, Altus Group*

Appeared on behalf of the Respondent:

- *J. Lepine, City of Calgary Assessor*

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

[1] The parties both asked to have the capitalization (Cap) rate portion of their arguments heard together for CARB Files 75544, 75546, 75350, 74134, 74114, 74113, 75579 and 74213. For this reason, the Cap rate arguments and conclusions for these files will be very similar.

Property Description:

The subject property includes Reitmans, Roots, PetSmart, The Shoe Company, Homesense and Winners as well as a freestanding ATB Bank, for a total of 90,558 sf of retail space.

Issues:

[2] Should the capitalization (Cap) rate for this Power Centre property be increased from 6.00% to 6.50%?

[3] Should the Rent rate for the Big Box portion (40,001 – 80,000 sf) be reduced from \$14.00/sf to \$12.50/sf?

Complainant's Requested Value: \$23,870,000

Board's Decision:

[4] The Board confirmed the assessment at \$27,120,000 using a Cap rate of 6.00% and a Rent rate of \$14.00/sf for the 40,001-80,000 sf Big Box.

Legislative Authority, Requirements and Considerations:

The Composite Assessment Review Board (CARB) derives its authority from the Municipal Government Act (MGA) 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 MGA 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 MGA 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:

[5] The Complainant introduced the subject property in Beacon Hill Power Centre. The property is assessed with a 6.00% Cap rate and the Winners portion of the assessment is a Big Box (40,001 – 80,000 sf) assessed at a Rent rate of \$14.00/sf.

[6] Issue One (Cap Rate): The Cap rate for Power Centres has been calculated by the City of Calgary based on two 2012 sales of properties in the Crowfoot Crossing Power Centre. The Complainant argued that not only are these two sales from the same location, but they were arranged at the same time. Altus does not believe that they are an accurate representation of typical Calgary Power Centre properties.

[7] Altus introduced two additional sales of Power Centre properties. One is Community Natural Foods at 850 Crowfoot Cr NW and the other is Harper's Tire/Enterprise at 155 Crowfoot Wy NW. The sales, with Cap rates of 6.03% and 8.60%, were registered on May 30, 2012 and June 26, 2012 respectively. Including these two sales in the calculation of a typical Cap rate resulted in a Mean Cap rate of 6.63% and a Median Cap rate of 6.41%.

[8] As well, Altus included the sale of the Sunridge Sears building at 3320 Sunridge Way NE registered on January 19, 2011 with a Cap rate of 6.55% to support the requested Cap rate of 6.5%.

[9] Issue Two (Rent Rate): The Complainant presented the Citywide Big Box 40,001 – 80,000 sf study used by the City of Calgary (C1, p23). It uses six leases ranging from \$11.00/sf to \$16.65/sf. The Complainant presented documentation to show that some of the leases were recently changed and that the new rent rates supported a lower Rent rate.

[10] Altus introduced a table (C1, p29) with the same six leases used by the City of Calgary plus an additional lease (Sears Home, Brentwood). The Complainant sorted the lease values by the dates they were established, arguing that the newer leases showed a median Rent rate of \$12.50.

[11] Altus argued that the Sears Home in Brentwood shares a common wall with the enclosed mall but has a separate entrance and is not actually a part of the mall, therefore it is more like a Big Box store in a Power Centre than an anchor for an enclosed mall.

[12] Altus isolated four leases which were more recent by their judgment and asked that the Board use the median among these leases as the typical Rent rate for Big Box stores 40,000 sf to 80,000 sf.

Respondent's Position:

[13] Issue One (Cap Rate): The Respondent, City of Calgary explained that the City used the two available sales from Crowfoot Crossing because they were the only timely sales of income producing properties available. He stated that Crowfoot Crossing is an accepted example of a Power Centre and the two properties were sold fairly recently, in 2012.

[14] The Respondent argued that Harper's Tire (previously Crowfoot Honda) was sold as a vacant property, and it was not producing an income at the time of the sale. Further, it was changed after it was purchased to accommodate the two current tenants, therefore the income which it is currently producing is not the income it would have been able to produce prior to being sold. Previously, the car dealership had been assessed using the Cost approach. It would be difficult to accurately calculate a Cap rate for the property for the assessment year.

[15] In addition, the City argued that Direct Control (DC) land use limitations on the property restrict its options for development severely and may have been a reason that the property sold at a low value, therefore increasing the Cap rate.

[16] Finally, the City introduced corporate searches, sales and other documents indicating that there may be a relationship between the vendor and purchaser rendering the sale non-arm's length.

[17] City of Calgary also argued that 850 Crowfoot Cr NW was purchased for occupancy by the owner and not to produce a rental income. For this reason, it was excluded from the Cap rate study.

[18] Issue Two (Rent Rate): The Respondent presented evidence to demonstrate that the so-called newer leases were actually extensions of old leases which had been agreed to at the original lease dates (R1, 100-122). The City showed that the leases which the Complainant was describing as "new" were actually among the older leases on the list.

[19] City of Calgary also argued that the Sears Home store in Brentwood is an anchor store for an enclosed mall and should not be included in the list of Big Box stores used to calculate Power Centre rent rates. Typically anchor stores attract lower lease rates because the mall management needs them to attract customers into the mall.

[20] The Respondent also showed that even if the Sears Home store is included in the list,

making it a list of seven leases rather than six, the median lease rate is \$13.50/sf which is closer to the City's assessment of \$14.00/sf than it is to the request of \$12.50/sf.

[21] City of Calgary requested that the typical Rent rate for Big Box stores 40,001 sf to 80,000 sf be confirmed at \$14.00/sf.

Board's Reasons for Decision:

[22] Issue One (Cap Rate): The Board considered the Capitalization Rate Summary presented by the Complainant (C2, p17). Two of the sales in the summary were also on the Respondent's 2014 Power Centre Capitalization Rate Study (R1, p126). The remaining two came from the same Power Centre (Crowfoot Crossing) as the first two.

[23] Both parties accepted 20/60 Crowfoot Cr NW and 140 Crowfoot Cr NW as suitable sales for the study. The Board agreed and chose to use them as well.

[24] The Sunridge Sears building is not in a Power Centre and its sale was introduced by the Complainant to support a 6.5% Cap rate, but not to be included in the Power Centre Cap rate study. The Board did not include it in the Cap rate study.

[25] City of Calgary argued that 850 Crowfoot Cr NW was owner occupied and was purchased for its value to the owner. The Board found that the sale was arm's length and had a value that could be measured to calculate a Cap rate. The building was similar before and after it was sold. The Board decided to include it in the Cap rate study. The Cap rate (6.03%) used by the Complainant for this property did not change the Cap rate presented by the City.

[26] The Board considered 155 Crowfoot Wy NW. The property sold as a vacant car dealership which was assessed using the Cost approach, and is now operating as a tire shop and a car rental office assessed using the Income approach. The Board decided that the Sale value of the property was based on its use as a car dealership, whereas the Income approach valuation is based on a different use with some alterations to the building. It would be difficult to calculate an accurate Cap rate for the building using these two values.

[27] For these reasons, the Board chose to exclude 155 Crowfoot Wy NW from the Cap rate study and to use the three remaining properties proposed by the parties. There were no other timely sales of similar Power Centre properties available, therefore these three sales from one centre only were used to calculate a typical Cap rate of 6.00%.

[28] Issue Two (Rent Rate): The Board considered the Complainant's argument that some of the leases were newer than others, and those should be used in finding a typical Rent rate. The documentation presented by the Complainant did not support the argument that these were new leases. The documentation presented by the Respondent indicated that these were extensions or renewals of leases negotiated at first occupancy, in an open market. The Board decided that the leases could not be selected by order of renewal dates and chose to use the original lease dates to include all of the Respondent's leases.

[29] The Board considered the argument that Sears Home (Brentwood) is actually a Big Box and not an anchor for an enclosed mall. This store is accessed outside the mall, not within the mall and runs as a separate entity. No evidence was presented to show that the store does or does not act as an anchor for the mall. The Board examined the effect of the Sears (Brentwood) lease on the overall typical Rent rate. If this lease is included, the median rate is \$13.50/sf. If it is not the median rate is \$14.00/sf. Both of these rates support the City's \$14.00/sf Rent rate more than they do the Complainant's request of \$12.50/sf.

[30] The Board confirmed the Rent rate at \$14.00/sf.

[31] The Board confirmed the assessed value of \$27,120,000 for this property, with a Cap rate of 6.00% and a Rent rate of \$14.00/sf.

DATED AT THE CITY OF CALGARY THIS 11th DAY OF July 2014.



L. Yakimchuk

Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Appendix Cap Rate Study
3. C3	Complainant Disclosure
3. 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:

A	B	C	D	E
CARB	Retail	Big Box	Income approach	Cap Rate, Rent Rate
