



## ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL  
1 SIR WINSTON CHURCHILL SQUARE  
EDMONTON ALBERTA T5J 2R7  
(780) 496-5026 FAX (780) 496-8199

### NOTICE OF DECISION NO. 0098 95/10

FAIRTAX REALTY ADVOCATES  
300 – 360 MAIN STREET  
WINNIPEG, MB R3C 3Z3

The City of Edmonton  
Assessment and Taxation Branch  
600 Chancery Hall  
3 Sir Winston Churchill Square  
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on August 3, 2010, respecting a complaint for:

<b>Roll Number</b> 10015432	<b>Municipal Address</b> 13150 – 137 Avenue NW	<b>Legal Description</b> Plan: 0420355 Block: A Lot: 11
<b>Assessed Value</b> \$17,988,500	<b>Assessment Type</b> ANNUAL NEW	<b>Assessment Notice For:</b> 2010

#### Before:

**Board Officer:** Karin Lauderdale

Pat Mowbrey, Presiding Officer  
James Wall, Board Member  
Brian Carbol, Board Member

**Persons Appearing: Complainant**  
Syd Storey, Fairtax Realty Advocates

**Persons Appearing: Respondent**  
Frank Wong, Assessor  
Rebecca Ratti, Law Branch

### PRELIMINARY MATTERS

#### Position of the Respondent:

The Respondent requests that the Complainant's evidence be excluded because it contains issues not identified on the complaint form in accordance with section 9(1, 2) of MRAC. The Respondent argues that the issue of deferred maintenance is not disclosed under section 9(1, 2). Therefore, the Respondent requests the Board to exclude the Complainant's disclosure regarding deferred maintenance and requests the issues be limited to market rent and capitalization rate.

#### Position of the Complainant:

The Complainant states that the complaint form was submitted by fax with an attachment which detailed the issues including deferred maintenance as part of the capitalization rate.

The attachment is not included with the complaint form in the documentation before the Board but is included with the disclosure evidence.

**Decision:**

The decision of the Board is to proceed with the merit hearing.

**Reasons:**

1. The Board is of the opinion that the issues stated on the complaint form; market rate and capitalization rate, are broad and encompassing. Further discussion between the Complainant and the Assessment Department would have narrowed the complaint issues.
2. The Board considers the fair and open hearing process of utmost importance and therefore will proceed with the merit hearing.

**BACKGROUND**

The subject property located at 13150 – 137 Avenue NW is known as North City Centre and is a 105,240 sq. ft. retail development. A substantial portion of the space is leased to national tenants such as Old Navy, Jysk, Scotia Bank and Staples.

It was originally assessed at \$17,988,500; however, the City of Edmonton is requesting an increase of the 2010 assessment of this property from \$17,988,500 to \$18,719,500. The requested increase is a result of a 3,500 sq. ft. building built on the SE corner of the subject property in 2009.

**ISSUES**

1. Is the lease rate typical for the tenants of the older reconfigured subject building as reflected in the assessment?
2. Does the assessment take into account deferred maintenance costs?
3. Is the assessment for the new building excessive?

**LEGISLATION*****The Municipal Government Act, R.S.A. 2000, c. M-26;***

s.305(5) If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.

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 COMPLAINANT**

The Complainant contends that due to the uniqueness of the subject property's main structure, the current leases on areas occupied by Jysk and Staples represent market rent. The uniqueness is the result of this main improvement being reconfigured from an original single user building to its current use to accommodate three tenants.

The Complainant provided an engineers report from Pinchin Environment Ltd. (C-1, p.11-40) which indicated substantial deferred maintenance was required by this improvement in the amount of \$1,163,400, with roof replacement being the largest single deferred maintenance cost at \$1,052,400.

The Complainant argued that the new building, constructed in 2009 at the SE corner of the site, was at a cost of \$350,000 and the assessment was valued at \$731,000 which the Complainant felt was excessive.

## **POSITION OF THE RESPONDENT**

The Respondent argued that the rental rates applied to the Jysk and Staples tenancies are typical when compared to rental rates prevailing in similar properties. Specifically, the rental rate of \$13./sq. ft. was in fact lower than rates used in the assessment of similar power centre space.

No specific reduction in the subject assessment is required to reflect deferred maintenance as this is considered to be included in the 2% allowance for structural maintenance which is standard in valuing property through the income approach.

The 3,500 sq. ft. building addition to the SE corner of the subject property was constructed in 2009 and considered 100% complete and ready for tenant improvements as of December 31, 2009.

## **FINDINGS**

1. The lease rate is typical for a power centre and supported by lease comparables.
2. The assessment did not consider the deferred maintenance costs.
3. The new building assessment is fair and equitable.

## **DECISION**

The decision of the Board is to increase the 2010 assessment from \$17,988,500 to \$18,719,500 to include the assessed value of the new building, and furthermore, to reduce this amended assessment of \$18,719,500 to \$17,667,100 to reflect the cost of deferred maintenance.

## **REASONS FOR THE DECISION**

1. The Board reviewed the Complainant's evidence (C-1) and the Respondent's evidence (R-6).
2. The Board was informed by the Respondent that the subject shopping centre has been classified as a power centre which is defined as  
*"large community centres with more than 250,000 sq. ft. of space anchored by at least three, but often four or more, anchor tenants that occupy approximately 75% (60 – 90%) of the Gross Leaseable Area. The anchors are typically discount-oriented, specialty retailers such as Home Depot, Toys R Us, Home Outfitters, Pier One, London Drugs, etc. Sometimes one of the anchors is referred*

*to as a “category killer” which means that it is so strong in its line of merchandising that no competing specialty retailer in the same line can be attracted to the centre. This type of centre can be developed on one or many legal addresses. Usually flanked by 1 or 2 major thoroughfares.* As such, the lease rates typical to all power centres in the City were applied to the subject tenants.

3. The Board noted that the Complainant argued that the subject shopping centre did not meet the criteria of a power centre. The Respondent indicated that it groups a number of adjacent retail centres to form a power centre for assessment purposes.
4. The Board is of the opinion that the power centre grouping for assessment purposes is reasonable in mass appraisal.
5. The Board noted the Income Approach To Value applying typical market rents was used to value the subject property. The Board considers this an appropriate method of valuation.
6. The Board notes that the Respondent is legislated to prepare assessment values by mass appraisals.

*Mass appraisal is a methodology for valuing individual properties which involves the following process:*

- *properties are stratified into groups of comparable property*
  - *common property attributes are identified for the properties in each groups*
  - *a uniform valuation model is calibrated for each group using market information and which incorporates the property attributes.*
7. The Board received a rent roll for 2009 showing actual rents and typical rents applied for the assessment. The Complainant failed to provide supporting evidence that the actual rent on the Jysk and Staples spaces represents a typical rent for the portion of the subject property which is a reconfigured single user building and considered unique.
  8. The Board placed greater weight on a typical assessment rent chart provided by the Respondent (R-6, p.35) for various type users in power centres.
  9. The Board reviewed evidence from the Complainant (C-1, (3), p.11-40) an engineering study conducted by Pinchin Environmental Ltd. retained by Artis Real Estate Investment Trust, the Complainant. The report stated (C-1, (3), p.20-23) that the roof will have achieved its maximum PUL and should be replaced in 2007/2008 at a total cost of \$1,052,400.
  10. The Board heard that the Complainant had not yet completed the roof replacement and claims this is a deferred maintenance cost that affects value and should be deducted from the assessed value.
  11. The Board is of the opinion that the roof replacement cost of \$1,052,400 is a deferred maintenance cost that reduces the value of the property and should be deducted from the assessment value.
  12. The Board heard evidence from the Complainant that a new building on the subject site had been constructed and at December 31, 2009 was considered “essentially complete”. The Complainant informed the Respondent of the new building after receiving the 2010 assessment notice. The Respondent could not, under new legislation, send out an amended assessment to include the new building’s assessed value and therefore brought the request to amend the assessment to the Board.
  13. The Board is of the opinion that the assessment of \$731,000 for the new building is fair and reasonable. The Board notes this substantially exceeds the cost of \$350,000 provided by the Complainant, however, this is considered realistic as the subject property is assessed on the basis of market value rather than the cost to create.

## **DISSENTING DECISION AND REASONS**

There are no dissenting decisions or reasons.

Dated this 4th day of August, 2010, at the City of Edmonton, in the Province of Alberta.

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Presiding Officer

*This Decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, R.S.A. 2000, c.M-26.*

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CC: ARTIS REAL ESTATE INVESTMENT TRUST  
300 – 360 MAIN STREET  
WINNIPEG, MB R3C 3Z3

ARTIS FORT MACMURRAY PORTFOLIO LTD.  
300 – 360 MAIN STREET  
WINNIPEG, MB R3C 3Z3

MUNICIPAL GOVERNMENT BOARD  
15<sup>TH</sup> FLOOR, COMMERCE PLACE  
EDMONTON, AB T5J 4L4