

# Central Alberta

Regional Assessment Review Board

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Complaint ID 468  
Roll# 431285  
Decision# 0262 468/2012

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## CENTRAL ALBERTA ASSESSMENT REVIEW BOARD DECISION HEARING DATE: AUGUST 7, 2012

PRESIDING OFFICER Rob Irwin  
BOARD MEMBER A. Knight  
BOARD MEMBER A. Gamble

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### BETWEEN:

Bower Plaza Corp  
Complainant

-and-

The City of Red Deer  
Revenue & Assessment Services  
Respondent

### JURISDICTION

1. The Central Alberta Regional Assessment Review Board (hereinafter, "the Board") has been established in accordance with section 456 of the *Municipal Government Act R.S.A. 2000, ch M-26* (hereinafter, "the MGA") and the *City of Red Deer Assessment Review Board Bylaw 3441/2009*.
2. Neither party raised an objection to any member of the Board hearing the complaint.
3. No procedural or jurisdictional matters were raised by either party.

### BACKGROUND

4. This decision pertains to a complaint filed by the Complainant represented by Linnell Taylor, in respect of property located in Red Deer at: 2325 50 Avenue.
5. The subject property is a shopping centre made up of retail businesses, restaurants, a pub and a convenience store/gas bar. There are 15 Commercial Rental Units (CRU's) that

range in size from 785 sq. ft. to 10,451 sq. ft. The property is zoned C2B Commercial (District Shopping Centre) District and the year of construction is 1979. The subject property is known as Bower Plaza and has a total leasable space of 49,910 sq. ft.

6. Of the total leasable space, 7,693 sq.ft. is leased by a non profit organization and is exempt from taxation under provincial legislation.

7. The Assessment Summary for the subject property indicates that CRU's under 6,000 sq.ft. were assessed with a Market Rent of \$20.00/sq.ft. and CRU's over 6,000 sq.ft. were assessed with a Market Rent of \$10.00/sq.ft.

## **ISSUES**

1. The Complainant confirmed at the hearing that the only issue was assessment amount. This was indicated on the Assessment Review Board Complaint form that was dated March 15 2012, by checking box 3. The form noted in Section 5 that the requested assessed value was \$1,957,497(Exempt portion).

8. **Complainant:** The Complainant took the position that the overall assessed value of the subject property was considered fair but the apportionment between taxable and exempt portions was not equitable. It is the Complainant's position the subject complex, which is tax exempt, and has been assessed at \$10.00/sq.ft. should have been assessed at \$20.00/sq.ft.

9. To support this argument the Complainant provided information on six leases from the subject property (Subject Property Comparables). The Subject Property Comparables have lease start dates ranging from 2009 to 2011 and ranged in size from 825 sq. ft. to 7,693 sq. ft. The weighted mean rate/sq.ft. of the Subject Property Comparables is \$17.69 and the median rent rate/sq.ft. is \$19.88.

10. The Complainant specifically noted the Subject Property Comparable with a lease start date of March 2011, and a lease rate of \$19.75/sq.ft. The Complainant asserted that this was the best comparable as the lease start date is the closest to the Valuation Date and the property closest in size to the subject complex with 6,361 sq.ft.,

11. Also presented was a chart titled 'Other Larger CRU Leasing' (Additional Comparables). The Additional Comparables lease start dates ranged from 2010 and 2011, with one comparable being noted as "asking". The sizes of the Additional Comparables ranged from 3,024 sq.ft. to 5,930 sq.ft. and the net lease rates ranged from \$17.00/sq.ft. to \$21.60/sq.ft.

12. It is the Complainant's position that the comparables presented support a rental rate of \$20.00/sq.ft.

13. **Respondent:** The Respondent stated that an analysis was done on the most current leases from properties within the municipality to determine typical market rents for various tenant and property types. This analysis indicated that the size of the leased space had an impact on the rent rates.

14. The Respondent also stated that there were two leases in a nearby shopping centre that were signed in May and June of 2010 for spaces over 6,000 sq.ft. at \$8.50/sq.ft. It is the Respondent's position that these two leases, the subject complex lease rate of \$12.00/sq.ft. and another lease from the subject property for 10,451 sq.ft. with a lease rate of \$9.00/sq.ft. all support a market rent rate of \$10.00/sq.ft. for space over 6,000 sq.ft.

15. The Respondent challenged all of the Complainant's comparables, citing that the lists were compiled including properties not comparable to the subject complex's use or size. Concern was also expressed regarding using an asking price as a reliable comparable.

16. The Respondent stated that market rent rates in relation to the 6,000 sq.ft. threshold have been applied consistently throughout the municipality.

### **Findings**

17. The Board places little weight on the Complainant's Subject Property Comparables. The uses of the Subject Property Comparables were different from the subject complex. The Respondent asserted that their analysis showed that banks, restaurants and convenience stores typically have higher rental rates than a retail CRU. The Complainant did not offer any evidence to refute this argument.

18. The Board also places little weight on the Complainant's Additional Comparables. No information on the uses of the Additional Comparables was provided. As previously stated, in the absence of any evidence to establish that the use of a space does not impact lease rates, this information is required for the Board to determine if the Additional Comparables are in fact comparable to the subject complex.

19. The Board does not accept the Respondent's argument that the two leases at \$8.50/sq.ft., the subject complex lease rate of \$12.00/sq.ft. and the other lease from the subject property at \$9.00/sq.ft. all support a market rent rate of \$10.00/sq.ft. for space over 6,000 sq.ft.

20. The \$9.00/sq.ft. lease date is 2001. No evidence was presented to establish that a lease signed in 2001 would be representative of market value during the Valuation Period. The reported \$8.50/sq.ft. leases lacked size and use details and therefore were not considered by the Board.

21. As neither party's comparables were accepted by the Board as being comparable to the subject complex, the only information the Board has to consider when looking at the matter of equity between the taxable and exempt portions of the assessment is the subject complex. Section 487(3)(a) of the *Municipal Government Act* states;

*'An assessment review board must not alter any assessment that is fair and equitable, taking in consideration*

- (a) The valuation and other standards set out in the regulations*
- (b) The procedures set out in the regulations, and*
- (c) The assessment of similar property or businesses in the same municipality.'*

The Board finds that, irrespective of taxable or exempt status, the Complainant did not provide sufficient evidence to establish that the market lease rate applied to the subject complex is unfair or inequitable.

### **DECISION**

The Board confirms the 2012 assessment as follows:

Roll # 431285 at \$ 11,317,900.

Dated at the City of Red Deer, in the Province of Alberta this 7 day of September, 2012 and signed by the Presiding Officer on behalf of all three panel members who agree with this decision.

  
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R. Irwin, Presiding Officer

**This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).**