

July 20, 2011

**NOTICE OF DECISION  
CARB 0302 - 10/2011**

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Strathcona County  
Assessment and Taxation  
2001 Sherwood Drive  
Sherwood Park, AB T8A 3W7

This is a decision of the Composite Assessment Review Board from a hearing held on June 20, 2011 regarding a complaint for:

Hearing #	Appellant/Owner	Property Description	Roll #	Assessed Value
C2011-15	SRF2 Beaverbrook Square Inc.	Lot 3, Block 206, Plan 9123413 SW 3-53-23-W4 (Broadview Park) Beaverbrook Square Shopping Centre	8206003001	7,535,000  <b>REVISED \$5,700,000</b>

**Before:**

Tom Robert, Presiding Officer  
Susan Paul, Board Member  
Ryan Bosch, Board Member

**Persons Appearing: Complainant**

Stephen Cook, Altus Group  
Walid Melhem, Altus Group

**Persons Appearing: Respondent**

George Cosens, Manager, Assessment  
Treena Malishewski, Assessor  
Brian Gettel, Gettel Appraisals Ltd. (witness)

**PRELIMINARY MATTERS**

There were no objections to the composition of the Board or the process to be followed as outlined by the Presiding Officer.

The Respondent had requested that the respondent evidence before the Board be held in confidence due to the content of privileged information and as such the board has agreed to seal the evidence as requested.

**BACKGROUND**

The subject property is a Community Centre (Shopping Centre) located at 280, 270 Baseline Road, known as Beaverbrook Square. The property consists of 186,437 ft<sup>2</sup> of land and 45,763 ft<sup>2</sup> of buildings.

### **ISSUES**

1. What is the typical capitalization rate for the subject property for the assessment period as of July 1, 2010?
2. Should the sale of the subject property be reflected in the assessed value?

### **ISSUE #1**

What is the typical capitalization rate for the subject property for the assessment period as of July 1, 2010?

### **POSITION OF THE COMPLAINANT**

The Complainant argued that capitalization rates should be developed from sales comparables within the same municipality. The Complainant presented five sales comparables within Sherwood Park, similar to the subject property sales dates 2008/2009.

The capitalization rates range from 7.60 to 9.83% with an indicated average rate of 8.64% and a requested cap. rate of 8.50%.

The Complainant further argues that if Edmonton comparable sales used in developing cap. rates in Sherwood Park are used, then all sales of similar properties must be included in the analysis. It was noted that the four City of Edmonton cap. rates comparables used by the Respondent in developing his 7.75% cap. rate, range from 8 to 8.5% for assessment purposes by the City of Edmonton Assessment Department.

The Complainant indicated that they had removed two of the Sherwood Park sales as they were part of a portfolio sales transaction. It is the Complainant's opinion that multiple property sales without detailed analysis may be suspect.

### **POSITION OF THE RESPONDENT**

The Respondent provided nine sales comparables in development of the 7.75% capitalization rate. Two of these same sales comparables were used by the Complainant. Due to the limited number of sales in Sherwood Park, the assessor included several Edmonton Metropolitan Region sales that occurred within 6 months prior to the valuation date of July 1, 2010. The average of the nine sales indicated a 7.54% average and a 7.50% medium cap. rate.

The Respondent indicated through expert witness (Mr. Brian Gettel) that the cap. rates applied are correct and consistent throughout Sherwood Park. Gettel Appraisals Ltd. prepared short narrative appraisals on 8 properties for assessment review purposes that support these findings.

Mr. Gettel concluded that sales utilized by the Respondent were realistic indicators of market capitalization rates for properties under analysis. Mr. Gettel indicated that two of the sales selected by the Complainant to be anomalies which clearly yielded rates well beyond what would be considered within a typical range for good quality retail projects.

### **DECISION**

The decision of the Board is to confirm the capitalization rate at 7.75%.

### **REASONS FOR THE DECISION**

The Board is of the view, as are both parties, that the best comparables are those within the same municipality. In regard to the subject, there is insufficient similar sales comparables to establish a typical capitalization rate within Sherwood Park.

The Complainant put forward five comparables, two of which indicate capitalization rates much higher than is typical within the metropolitan area as well as other Sherwood Park sales. The remaining sales of 7.79 (actual), 7.60 and 8.03% appear to fall within the range of comparables put forward by both parties.

### **ISSUE #2**

Should the sale of the subject property be reflected in the assessed value?

### **POSITION OF THE COMPLAINANT**

The Complainant argues that the best indication of market value is the sale of the subject at or near the valuation date. The subject property sold on March 27, 2009 for 4,057,000.

Since the time of sale, there has been an expansion to the subject improvements of \$1,601,500. Therefore the assessed value should reflect a total value of \$5,685,500.

### **POSITION OF THE RESPONDENT**

The sale of the subject property in March 2009 does not reflect typical market conditions occurring 6 months prior to valuation date of July 1, 2010.

### **DECISION**

The decision of the Board is to reduce the subject property assessment to \$5,700,000.

### **REASONS FOR THE DECISION**

The Board is of the opinion that the arms length sale of the subject property is the best indicator of value.

The Board did not hear evidence from the Respondent in regard to the validity of this sale. The Respondent did verbally indicate that there may have been motivation in this sale, as indicated from the low purchase price in comparison to other sales, however, no evidence was provided to the Board in regard to any circumstances which would preclude this sale from being considered.

The Board looked to past decisions in regard to the sale of a subject property in determining assessed value, as well as Alberta Court of Queens Bench, 697604 Alberta Ltd. vs. Calgary "24". In my view, the Municipal Government Board (MGB) failure to rely on the evidence of value provided by the recent sale of the property fails to meet the test of reasonableness. Board Orders 068/04, 046/06 and 025/05 all indicate a valuable sale of the subject near or at the assessment date is the best indicator of value.

The Board therefore reduces the assessment from \$7,535,000 to \$5,700,000.

Dated this 20<sup>th</sup> day of July, 2011 at Strathcona County, in the Province of Alberta.



Tom Robert  
Presiding Officer

Documents Received and Considered by the Board

1. Exhibit 1-C Complainant Disclosure filed May 6, 2011
2. Exhibit 2-R Respondents Disclosure filed June 6, 2011
3. Exhibit 3-C Complainant Rebuttal filed June 10, 2011

Section 470(1) of the Municipal Government Act, RSA 2000, c.M-26 provides you the right to appeal this decision to the Court of Queens Bench on a question of law or jurisdiction. You must make your appeal within 30 days after you receive this notice of decision.

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