

Complaint ID No. 0194 1256

Roll No. 020020110

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: October 3, 2019

PRESIDING OFFICER: Brenda Hisey
BOARD MEMBER: Maureen Chalack
BOARD MEMBER: Al Gamble

BETWEEN:

CP REIT ALBERTA PROPERTIES LIMITED

Complainant

-and-

CITY OF LACOMBE

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor for the City of Lacombe as follows:

ROLL NUMBER: 020020110

MUNICIPAL ADDRESS: 5700 Highway 2A

ASSESSMENT AMOUNT: \$4,611,000

The complaint was heard by the Central Alberta Regional Assessment Review Board on the 3rd day of October 2019, at The City of Lacombe, in the province of Alberta.

Appeared on behalf of the Complainant:

Kam Fong, Altus Group Limited

Appeared on behalf of the Respondent:

Warren Powers, Powers & Associates Appraisal Services

DECISION: The Board confirms the assessment of \$4,611,000.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and The City of Red Deer, Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw* (November 14, 2011).

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject is a 213,008 sf (4.89 acres) commercial property located at 5700 Highway 2A in the City of Lacombe. The building area is comprised of a 27,917 square foot (sf) grocery store (No Frills), 12,006 sf retail store (Dollar Tree) and a stand alone 300 sf gas bar kiosk.
- [3] The current assessment has been calculated utilizing the Income Approach with an excess land calculation.

PROCEDURAL MATTERS

- [4] The Presiding Officer confirmed that no Board Member raised any conflicts of interest regarding the matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Board confirmed submissions of the parties and entered the following Exhibits into the record throughout the hearing:
- A1 - Hearing Materials provided by the Clerk (20 pages)
 - R1 - Respondent Disclosure (27 pages)
 - C1 - Complainant Disclosure (197 pages)
 - C2 – Complainant Rebuttal (182 pages)
- [7] The Complainant requested the Board dismiss all evidence and argument regarding the Capitalization Rate (cap rate) and gas bar issues. A revised assessment is requested based on a \$7.00 sf rental rate for the grocery and retail space (currently assessed at \$12.00 per sf).

ISSUE

- [8] Has the subject property been correctly assessed?
- a. Should a reduced retail rental rate of \$7.00 per sf be used to calculate the assessment?

POSITION OF THE COMPLAINANT

- [9] The Complainant presented an overview of the subject property and the current assessment.
- [10] The appeal had been filed on the basis that the subject property was incorrectly assessed when compared to rents of similar properties. It was requested that a revised assessment should be considered which would reduce the typical rental rate on the retail space from \$12 per sf to \$7.00 per sf.
- [11] Several leasing tables were provided in support of the requested rental rate. The Complainant suggested that the best information would be the actual lease information from similar large spaces due to the economies of scale, however properties with areas less than 10,000 sf could also be considered for general information.
- [12] The table of four properties with building areas greater than 10,000 sf from within the City of Lacombe realized a median value of \$7.00 per sf:
1. Peavy Mart (5230 – 45 Street, Lacombe Centre Mall). Lease rate \$7.50 per sf.
 2. Red Apple Store Inc. (5230 – 45 Street, Lacombe Centre Mall). Lease rate \$6.50 per sf.
 3. Dollarama (5230 – 45 Street, Lacombe Centre Mall). Lease rate \$6.38 per sf.
 4. Dollar Tree (5700 230 Highway 2A). Lease rate \$9.16 per sf.
- [13] The Complainant noted that the subject property was a 17 year old building and should be aligned with older properties such as the Lacombe Centre Mall.
- [14] To provide a test for the correctness of the rent request the Complainant gave a sample of large retail properties outside the municipality from similar sized communities. This information was included for trending purposes as these space types were not as prevalent in a medium sized municipality such as the City of Lacombe.
- [15] The Complainant noted that the existing Dollar Tree lease of \$9.15 per sf does not support the assessed \$12.00 per sf rent. It was also suggested that if the existing lease were negotiated today a further reduction may be realized.

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- [16] The Complainant stated that based on the comparables provided the requested revised retail rental rate should be \$7.00 per sf and requested a reduced assessment of \$2,806,200.

POSITION OF THE RESPONDENT

- [17] The Respondent explained that mass appraisal was used to determine the assessment base for property taxation in accordance with legislative requirements. Typical rates and values have been consistently applied in the Income Approach for commercial/retail/office properties to determine market value in the City of Lacombe.
- [18] Upon review of the Complainants comparable properties the Respondent stated that they were very different to the subject property. It was suggested that buildings under 10,000 sf were not comparable and that the properties over the 10,000 sf in size presented by the Complainant were also very different to the subject. Of the four large comparables provided, three were from the same older (1979) strip mall and not similar to a stand alone building constructed in 2000. The remaining property was part of the subject, which had a higher rental rate (\$9.16 per sf negotiated in 2014) than what was being requested.
- [19] In response to the information provided by the Complainant from other municipalities, the Respondent suggested the Board acknowledge section 467(3)(c) of the *Municipal Government Act* (MGA) which requires assessments be fair and equitable taking into consideration similar property or business in the same municipality. The Respondent requested the appropriate weight be applied to information from other jurisdictions.
- [20] The Respondent presented a list of 13 properties within the City of Lacombe. The English Estates development being the most similar, as it is a larger retail space which provides for economies of scale and is more relative to the age and use of the subject. The Co-op food store within that development has a rental rate of \$12.00 per sf. The Respondent also provided the Sobeys Grocery store rent which was \$15.50 per sf to further support the assessment of the subject property.
- [21] The Respondent suggested that reasonableness is paramount in consideration of fairness and equity and in this review; it is not reasonable to reduce a rent rate that would be less than similar properties.
- [22] It was the Respondents contention that the stratification of properties and application of typical variables had been appropriately and consistently applied to the assessment tax base. It was noted that the Complainant had provided no information to support the requested decrease in the retail rental rate and asked the Board to confirm the assessment.

REBUTTAL

- [23] The Complainant refuted the start dates for several of the leases from comparable properties offered by the Respondent. Information was provided in the form of Land Titles

- documentation that suggested the lease agreements for these properties were much older than presented. It was the Complainants contention that several leases initiated in 1999 should be given less weight than more recently negotiated rents.
- [24] The Complainant also proposed that several of the existing step up lease agreements may be realizing higher rents than what could be put forward today. Again, it was requested the Board analyze these lease dates and apply the appropriate weight to the lease information.

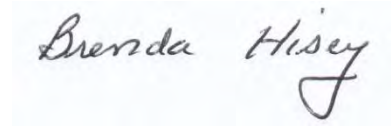
BOARD FINDINGS and DECISION

- [25] The Board gave less weight to the Complainant comparables of less than 10,000 sf as they were dissimilar to the subject property. For the Complainant comparables with buildings greater than 10,000 sf, the Board found that three were in an older strip mall and should appropriately have lower retail rents and the fourth was part of the subject property (which had an actual rent that was higher than what was requested).
- [26] The Board found the best evidence to be the existing typical retail rates from within the City of Lacombe provided by the Respondent. It was confirmed that the legislated requirements set out in section 2(c) of the *Matters Relating to Assessment and Taxation Regulation*, Alberta Regulation 220/2004 requires that the assessment must reflect typical market conditions for similar properties. This necessitates the consistent use of typical rather than actual rents.
- [27] The Board finds the requested retail rental rate would provide inequity to existing properties as typical values from comparables provided by both parties, support a higher rent than the requested \$7.00 per sf value.
- [28] The Board acknowledges Section 467(3)(c) of the *Municipal Government Act*, RSA 2000, c M-26 states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration the assessments of similar property or businesses in the same municipality. For this hearing the Complainant has not shown sufficiently compelling evidence on which a change to the assessment is warranted.

DECISION SUMMARY

- [29] The Board confirms the assessment of \$4,611,000.

[30] Dated at the Central Alberta Regional Assessment Review Board, in the City of Red Deer, in the Province of Alberta this 22nd day of October, 2019 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.

A handwritten signature in black ink that reads "Brenda Hisey". The signature is written in a cursive style with a large, stylized "J" at the end.

Brenda Hisey
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1.	A.1 – Hearing Materials provided by Clerk
2.	C.1 – Complainants Disclosure 197 pages titled “Lionel’s No Frills & Dollar Tree”
3.	C.2 – Complainants Rebuttal 182 pages titled “Lionel’s No Frills & Royal Bank”
4.	R.1 – Respondent Disclosure 27 pages titled “No Frills & Dollar Tree”