


LETHBRIDGE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS



CARB – 001/2025

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Avison Young Tax Services - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Lana Yakimchuk, Presiding Officer

Timothy Hachkowski, Member

Allison Keith, Member

This is a decision of the City of Lethbridge Composite Assessment Review Board (CARB) from a hearing held on June 17, 2025 respecting the 2025 assessment for the following property.

| Roll No./ Property Identifier | Assessed Value | Owner |
|---|----------------|-------------------------------|
| 1-2-010-0501-0001 501 1 Avenue South | \$110,107,000 | Park Place Mall Holdings Inc. |

Appeared on behalf of the Complainant:

- Christopher Hartley, Avison Young Tax Services
- Brendan Peacock, Avison Young Tax Services

Appeared on behalf of the Respondent:

- Tessa Brady, Assessor, City of Lethbridge
- Brady Gillies, Assessor, City of Lethbridge

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] The subject property under complaint is a regional enclosed mall that is known as the Park Place Mall (the "Mall"). It was constructed in 1988 but has undergone several renovations over the years. The Mall has an assessable area of 480,744 square feet (sf), with 106,300 sf of anchor space that has been vacant for several years.

[2] The subject is assessed using the Income Approach to valuation, assigning "triple net" market rental rates, vacancy rates, operating costs and non-recoverable rates to the various space categories to calculate a net operating income (NOI). The NOI is then capitalized for assessment purposes at a capitalization rate of 8.00% to calculate the assessment value.

PART B: PRELIMINARY or PROCEDURAL MATTERS

- 1) The Respondent raised a jurisdictional issue concerning Rebuttal disclosed after the disclosure date by the Respondent and the Board. The Complainant showed records that the Rebuttal was electronically filed at 4:52 p.m. on the deadline day, June 9. There was no response from the mailing system to the Complainant's computer at that time. When hard copies were delivered to the Board and the Respondent on June 11 at 3:35 p.m., they were received as first notice of Rebuttal and it was recorded that they were received after the disclosure date. Further investigation showed that the electronic notice which should have informed the Complainant the original email had not been delivered was not directed from the Complainant's main office to the sender.
- 2) The Board Clerk advised the Parties that attachments over 50KB could not be delivered to the City of Lethbridge system. The large package of disclosure would have been automatically returned. The Complainant argued that there was no notice of the limitations to document size anywhere in the directions to the Parties and asked that the Panel accept the disclosure because it had been sent on time.
- 3) The Respondent argued that the Act does not allow an Assessment Review Board to hear disclosure which was not sent on time. They said that they had received the Rebuttal too late to address it comprehensively and were not willing to abridge the disclosure period. Further, they argued that the circumstances leading to the late disclosure were not extenuating. It was not unusual for technical issues to cause problems and the Respondent had not followed the mailing with a request for response or with a phone call to confirm receipt.
- 4) The Board finds that the circumstances leading to late receipt of the Rebuttal are not exceptional. The responsibility to ensure the disclosure is sent is the Complainant's. The Complainant assumed the documents had reached the Respondent but took no measures to confirm this assumption. The automatic reply to the Complainant's message informing them that the disclosure had been returned was received by Avison Young, but not by the specific computer from which the message had been sent. The disclosure was not received by the Respondent and the Board on the disclosure date.
- 5) The Respondent is not willing to abridge the disclosure period and there is no exceptional circumstance supporting a postponement of the hearing or part of the hearing to allow time for the Respondent to review the Rebuttal. Therefore, the Board decided the Rebuttal will not be heard.

PART C: MERIT ISSUES

- 6) The Board considered the following issues:
- a. Vacancy
 - i. Are Special Leases vacant for the purposes of the vacancy analysis?
 - ii. Should the Special Leases be factored into the lease analysis?
 - iii. Is Vacancy most accurately analyzed as a point in time or as a three year weighted average?
 - b. Should the market lease rate for CRU2 (14,400 to 24,999 sf) be decreased from \$15/sf to \$14/sf?
 - c. Should the market lease rate for CRU3 (25,000 to 50,000 sf) be decreased from \$20/sf to \$18/sf?

PART D: COMPLAINANT'S REQUESTED ASSESSMENT: \$99,424,000

PART E: SUMMARY OF PARTY POSITIONS

ISSUE a(i): Vacancy. Are Special Leases vacant for the purposes of the vacancy analysis?

ISSUE a(ii): Vacancy. Should the Special Leases (0-2,499 sf) be factored into the lease analysis?

Complainant's Position:

- 7) The Complainant explained that within the subject property there are currently a group of six leases, which they referred to as Special Licenses, that are "*typically short term, smaller spaces where the landlord is willing to accept (typically) a gross rate to lease out the space to give the appearance of occupancy rather than have them sit vacant.*" The Complainant argued that the special leases are not typical and should not be included in the vacancy analysis.
- 8) The Complainant said six smaller (0-2,499 sf) CRUs total 7,632 sf of space and would be vacant if the landlord was not willing to lease them at a lower rate on a gross rental basis for short periods of time. They provide little to no income to the landlord, and may result in a net loss, but they are assessed at \$43/sf. They do not appear to have been included in the lease analysis, so they should be considered vacant space.
- 9) The Complainant argued that because these are not typical leases, if they are included in the income analysis they should be considered economically vacant. They are not being leased for their highest and best use, and cannot be leased typically because there is low demand for this type of space. They are short term leases and do not have tenant improvements beyond the chattels the renters can take with them when they leave. They have less value, and produce less income than other parts of the mall and are like vacant space.

Respondent's Position:

- 10) The Respondent relies only on triple net leases in the lease rate analysis to ensure consistency in valuation. Gross leases are inappropriate for inclusion due to embedded costs that distort income and expenses analyses. Special leases are not included in the lease rate analysis.
- 11) The Respondent said that the special leases are included in the vacancy analysis, These spaces are not vacant, and the Respondent provided photographs of several of the CRUs showing that they do have tenants. The Respondent referred to MRAT, s.5 which directs that assessments using the income approach must be based on "typical", including typical vacancy loss. They said that the leases in question are typical of occupied spaces because
 - a. they are not physically vacant,
 - b. they are not marketed or available for lease,
 - c. they do not result in a loss of recoverable income, as operating costs as a whole are being recovered from the tenants in place,
 - d. their lease structure is a business decision, and operating costs are recovered through the remaining tenants.
- 12) The vacancy study includes all spaces, but in the rent rate analysis outliers were removed from the equation to avoid skewing the typical rate. In this mall, 82% of the leases are triple net leases.
- 13) The Respondent said that vacancy is calculated as a weighted average over three years using a 20%-30%-50% weighting for each of the three years leading to the assessment. Giving the greatest weight to the most recent vacancy rates, but balancing that rate with the vacancy of the previous two years gives the taxpayers some consistency.

CARB Findings:

- 14) The Board finds that the six CRU spaces in question are not vacant and should be included in the vacancy study as occupied CRUs.
- 15) Photographs show that physically the spaces are occupied. The Complainant's argument that the leases are economically vacant is not supported by the rent roll, which shows the leaseholders are paying rent on a gross lease rather than a triple net lease. A vacant space would not usually have a rental income.
- 16) The Complainant argued that the CRU (0-2,499 sf) leases are not included in the lease analysis, so they should not be included in the vacancy analysis. The Board finds that these spaces are not vacant and do produce an income. However, these gross leases are not typical triple net leases and should not be used in typical lease rate analyses. The income they produce is not typical but does contribute to the value of the mall.

- 17) The Complainant said that some of the gross leases do not cover their share of the costs. This may be explained by the Complainant's statement that the landlord is willing to accept (typically) a gross rate to lease out the space(s) to give the appearance of occupancy rather than have them sit vacant. This is not a benefit defined in dollars so that it can be included in an income study, but the spaces are occupied and rents are paid. No support was provided for an alternative way to assess them and the Board finds it is reasonable to estimate their value at the rates of triple net leases in the same mall. The Board finds no reason to consider the CRUs (0-2,499 sf) physically or economically vacant, or to assess their value differently from the remaining 82% of CRU space, which is more typical.
- 18) The special leases should not be included in the lease analysis because they are gross leases not typical triple net leases but they do have value. They occupy spaces, and the value of the spaces will be assessed at typical rates, using the triple net rental analysis.

ISSUE a(iii): Vacancy. Is Vacancy most accurately analyzed as a point in time or as a three year weighted average?

Complainant's Position:

- 19) The Complainant argued that the vacancy rate used in the income calculation is 6.5%, but the actual vacancy according to the 2024 rent roll is 8%. The subject property should be assessed at its current vacancy rate. This point in time vacancy rate is commonly used by many other municipalities. The final requested assessment included a vacancy rate of 8.0%.

Respondent's Position:

- 20) The Respondent said that vacancy was calculated as a weighted average over three years using a 20%-30%-50% weighting for each of the three years leading to the assessment. Giving the greatest weight to the most recent vacancy rates, but balancing that rate with the vacancy rates of the previous two years gives the taxpayers some consistency.
- 21) The Respondent said that the vacancy rates were 8% in 2024, 3.5% in 2023 and 6.59% in 2022. In the previous two years the weighted average was higher than that year's rate which resulted in a lower assessment, but this year the weighted average vacancy rate is higher than actual vacancy.

CARB Findings:

- 22) The Board finds that point-in-time and three-year weighted averages are both acceptable approaches to calculating vacancy rates.
- 23) The City of Lethbridge uses the three-year weighted average in its calculations. This is an acceptable procedure used by other jurisdictions, and the resulting vacancy rate is

reasonable. No evidence was provided to show that the method of calculation was an unacceptable practice, or that it is inferior to point in time measurements.

24) The Municipal Government Act, (the Act) s467(3) states:

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.*

25) The Respondent's calculations are fair and equitable, and there was no evidence showing that the assessment is not equitable with other similar assessments. In keeping with the direction provided in the Act, the Board did not change the approach to calculating vacancy for this assessment, and it will remain at 6.5%.

ISSUE b: Should the market lease rate for CRU2 (14,000 to 24,999 sf) be decreased from \$15/sf to \$14/sf?

Complainant's Position:

26) The Complainant said that CRU2 spaces in the subject property are assessed at \$15/sf. They stated that this is an increase of \$1/sf over the previous year's assessment.

27) There are two leases in this category in the mall. One CRU2 tenant recently renewed its lease for \$13.50/sf. The other CRU2 lease was renewed in October 2021 at \$16.45/sf with a step up to \$17.00/sf in 2024. The Complainant said that a step-up is not a lease renewal but a rate that was agreed to from the perspective of the original lease date. It is not reflective of current economic conditions. Only the \$13.50/sf rate is new enough to be included in a rent rate analysis.

28) The Complainant provided rent rolls for the mall for previous years as well as listings of rates and expenses.

29) The Complainant asked the Board to reduce the typical lease rate for CRU2 to \$14.00/sf, the rate used in 2024.

Respondent's Position:

30) The Respondent said that the typical rate was calculated using the two current lease rates for the two CRU2 spaces. It reflects the current typical value of the CRU2s. The new lease is an increase of 8% over the previous year and the second is a step-up from the 2021 lease. The step-up is a current lease value.

- 31) The Respondent provided rent rolls and an analysis.
- 32) The Respondent said that the leases in the analysis should include the last three years. In this case, there are only two leases available. The average of the two leases is \$15.25/sf if the recent step-up is included, or \$14.97/sf if the 2021 lease is substituted for the step-up. The rate used in the assessment is \$15.00/sf.

CARB Findings:

- 33) The Board accepts the \$15.00/sf rent rate for CRU2 spaces in the subject property.
- 34) The Board is aware that finding typical rates can be difficult when there are very few new leases. In this case, there are only two leases: one new lease and one step-up from a 2021 lease. The 2021 lease is one year beyond the three year grouping usually considered, and step-ups are often not considered new leases. The Board chose to use a four year analysis, supported by the current step-up. It is not always possible to have the ideal statistics to work with, but these numbers provide credible support for a typical rate.
- 35) The average lease rate using the old 2021 lease is \$14.97/sf. The average is \$15.25 using the step-up. Given these two calculations, a typical rate of \$15.00/sf is reasonable. The Board does not rely on previous year assessments in reviewing current valuations, as each year's assessment is new. Even so, in this assessment the increase in typical rate from the previous year is supported by the rent rolls, which show a general increase in new rates from 2023 to 2024.

ISSUE c: Should the market lease rate for CRU3 (25,000 to 50,000 sf) be decreased from \$20/sf to \$18/sf?

Complainant's Position:

- 36) The Complainant said that CRU3 space is assessed at \$20/sf. They stated that this is an increase of \$1.50/sf over the previous year's assessment.
- 37) The Complainant provided rent rolls for the mall for previous years as well as listings of rates and expenses. The rent roll shows that the lease rate for the space is \$20.00/year. There is one lease in this group, and it came into effect in 2015 at a rate of \$17.00/sf. The Complainant said this rate is a result of a step-up negotiated at the original lease signing in 2015 and should not be used in a lease rate analysis. The 2015 rate adjusted over time would support a typical rate of \$18.00/sf.

38) The Complainant asked the Board to reduce the typical lease rate for CRU3 to \$18.00/sf, the rate used in the previous year.

Respondent's Position:

39) The Respondent acknowledged that the assessment was based partly on a step-up lease and agreed it must be tested against current market conditions. The 8% increase applied to the CRU3 space is supported by the renewal of the CRU2 space at an increase of 8% over one year. This is the closest comparable to the CRU3 lease.

40) Leases in the mall renewed in the assessment year showed a median change of 9.09%, higher than the year over year increase for this lease. The Respondent provided rent rolls for all CRUs in the mall and an analysis with 2023 and 2024 lease rate renewals. In most cases, the new lease rates increased over the previous ones.

41) The Respondent argued that the typical lease rate increase is supported by the data, and asked the Board to accept the \$20.00/sf rate for CRU3.

CARB Findings:

42) The Board accepts the \$20.00/sf rent rate for CRU3 space in the subject property.


43) The Board understands that acceptable practice adapts to the circumstances. Because there is only one space of this size in the mall, it is useful to compare it to other larger spaces. The new CRU2 lease shows that rates are increasing. The average rate increase in this mall is 9.09%. The new CRU2 lease showed an increase of 8.00%. The subject actual lease is \$20.00/sf. All of these circumstances support a typical rate for the purposes of assessment of \$20.00/sf.

44) The Board did not change the rate for CRU3. It remains at \$20.00/sf.

PART F: DECISION

The Board did not change the assessment for the reasons shown above. It remains at \$110,107,000.00.

LETHBRIDGE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS



CARB – 001/2025

PART G: FINAL DISPOSITION OF COMPLAINT

The complaint is dismissed.

| Roll No./ Property Identifier | Assessed Value | Owner |
|---|----------------|----------------------------------|
| 1-2-010-0501-0001 501 1 Avenue South | \$110,107,000 | Park Place Mall Holdings Inc. |

Dated at the City of Lethbridge in the Province of Alberta, this 26 day of June, 2025.



—
Lana Yakimchuk, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

| NO. | ITEM |
|------------|--|
| 1. | C1 - Complainant's Disclosure - 167 pages |
| 2. | C2 - Complainant's Rebuttal -299 pages (Late. Not heard.) |
| 3. | C3 – Complainant's Preliminary Hearing Disclosure – 16 pages |
| 4. | R1 – Respondent Disclosure - 152 pages |
| 5. | R2 – Respondent Preliminary Hearing Disclosure – 36 pages |

APPENDIX 'B'

ORAL REPRESENTATIONS

| PERSON APPEARING | CAPACITY |
|-------------------------|--|
| 1. Christopher Hartley | Complainant Agent, Avison Young Tax Services |
| 2. Brendan Peacock | Complainant Agent, Avison Young Tax Services |
| 3. Tessa Brady | Assessor, City of Lethbridge |
| 4. Brady Gillies | Assessor, City of Lethbridge |