

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Patrick, PRESIDING OFFICER

A. Zindler, MEMBER

K. Farn, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	054009956
LOCATION ADDRESS:	3516 8 Ave NE
HEARING NUMBER:	56312
ASSESSMENT:	\$18, 290,000

This complaint was heard on the 15th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- Andrew Izard, for the *Complainant*

Appeared on behalf of the Respondent:

- Edwin Lee, *for the Respondent*

Board's Decision in Respect of Procedural or Jurisdictional Matters:

There were no procedural or jurisdictional matters.

Property Description:

The property is located on a separately titled 261,464 square foot site located at the corner of 33 Street NE and 8 Ave. NE upon which is located a Canadian Tire store with 94,438 main floor, 37,320 basement and 8,124 mezzanine space as well as a gas bar. The building has a physical separation from the Pacific Place Shopping Centre at the boundary between the lots upon which the Canadian Tire structure and the Pacific Place Shopping Centre structure are situated although the two structures are considered by the Respondent as combined and classified as a CM0203 Retail Shopping Centre - Neighbourhood Shopping Centre classification.

Background Note

The Complaint was made against the original assessment of 3 spaces in the subject property. The first space represented the store and the mezzanine for a total of 96,652 square feet assessed on the basis of Net Market Rent of \$14.00 per square foot. The second space represented by the basement storage of 37,320 square feet was assessed on the basis of Net Market Rent of \$3.00 per square foot, and the third space represented by the Gas Bar (kiosk) 1 square foot is assessed at \$45,000.00. During the Hearing the Respondent provided a proposed revised assessment which separated the mezzanine area of 8,124 from the store and assessed it on the basis of \$1.00 per square foot and assessed the revised store floor space to 94,438 square feet at a revised Net Market Rent of \$10.00 per square foot reducing the assessment from \$18,290,000 to \$13,370,000. The Respondent acknowledged that the \$14.00 Net Rent rate was an error. It is noted that s. 305(5) of the Municipal Government Act (S.A. 2000, Chapter M-26) prohibits the assessor from correcting or changing the assessment roll of the subject property until a decision of the Board has been rendered or the complaint has been withdrawn. The Complainant in this matter did not withdraw the Complaint.

Issues:

1. The assessed rate of the main floor retail area is neither fair nor equitable.
2. The vacancy rates applied are neither fair nor equitable.

Complainant's Requested Value: \$9,450,000

Board's Decision in Respect of Each Matter or Issue:

Complainant's Position:

1. **Net Market Rent.** The Complainant submitted that the Net Market Rent for the main floor store space should be \$8.00 per square foot and that the Net Market Rent for the basement storage area should be \$1.00 per square foot. The Complainant did not provide any evidence in support of the request to reduce the basement Net Market Rent to \$1.00.
The submissions by the Complainant of 12 comparables for retail anchor tenant lease rental rates in the size range from 74,000 to 158,022 square feet were from property located throughout Calgary. The only North East quadrant location is a Walmart Canada store at Deerfoot Outlet Mall with a lease rate of \$6.85 and a start date of July 2004. The current assessed value for that location is \$8.00 per square foot. The average lease rate for the group of comparables in the Complainant's evidence is \$8.93 per square foot. The complainant suggested that the best lease rate comparable in the group is the Zellers location at Signal Hill - Westhills at \$8.00 with a start date of September 1997. The most recent lease in the group of comparables is the Canadian Tire location at Beacon Hill Centre at \$14.50 with a start date of March 2008. The comparables information also included assessments for the properties and the range is from \$5.00 to \$10.00 with the average of \$8.33 per square foot. The median assessment rate in the comparables group is \$9.00 per square foot.
2. **Vacancy rate.** The Complainant submitted that the property is a free standing structure and ought to have a vacancy rate input of 4% as applies to other free standing anchor properties. The complainant acknowledged however that no evidence in support of such request was available to be submitted by the Complainant.
3. The Complainant rejected part of the proposed revisions of the assessments set forth by the respondent. The revised floor space derived by separating the mezzanine space from the store floor space and assessing the mezzanine space at \$1.00 per square foot is acceptable and resolves Issue numbers 1 and 2 of the Complaint and requests the Board approve those corrections to the assessment roll. The change proposed to the main floor retail area Net Market Rental rate from \$14.00 to \$10.00 is not satisfactory to the Complainant and the request for a rate of \$8.00 remains part of the Complaint before the Board. The proposed changes do not include any change to the Complainant's request for a vacancy rate of 4% based on the argument that the subject is a free standing property.

Respondent's position:

The Respondent contends that the proposed changes contained in Exhibit R-3 (as outlined in the Background Note) will correct the assessment of the subject and that the evidence provided to the Board supports the proposed revised assessment of \$13,370,000.

The issue of vacancy rate was not extensively addressed by the Respondent in view of the acknowledgement by the Complainant that no evidence in support of such request was being submitted. The respondent did note, as shown in its evidence, that it arrived at the vacancy rate used in the assessment on the basis that the assessment classification of the subject property is Neighbourhood Shopping Centre for which the Respondent applies 1% for the anchor and that the subject is combined with the adjoining retail mall to constitute the shopping centre of which the subject is the anchor.

The Respondent acknowledged that there was an error in the original assessment Net Market Rental rate at \$14.00 and that based on the assessment comparables it ought to have been \$10.00. The equity report submitted by the Respondent contained 24 properties including the subject among the Canadian Tire locations that appear in the report. All of those properties are shown as assessed at \$10.00 in the report but in fact the subject is assessed at \$14.00 as noted.

The Respondent submitted 10 lease rent comparables including 3 from the NE quadrant. The range of lease rates in the NE are from \$8.00 to \$15.27 and the start dates range from 1999 to 2004. The most recent leases in the group are Canadian Tire on Sarcee Trail NW dated 2008 at \$14.50, a Rona lease on Symons Valley Rd NW dated 2007 at \$14.50 and a Trail Appliances lease on 11 Street SE dated 2009 at \$9.59. The Respondent contends that the lease rates tend to support the proposed assessed rate for the subject at \$10.00 and that the comparable assessments disclose that the correct and fair Net Market Rent rate for the subject is \$10.00 per square foot.

Board's Decision:

The Board accepts that the changes proposed by the Respondent and agreed to by the Complainant, with respect to floor area and the mezzanine area adjustments including the rental rate of \$1.00 for the mezzanine area is fair and orders the assessment roll amended to show that there is 8,124 square foot mezzanine designated as Space 3 assessed at \$1.00 per square foot rate thus reducing the Space 1 retail floor area to 94,438 square feet. The Board confirms that the Space 2 area which is basement storage area remains assessed at \$3.00 per square foot on the basis that no evidence was offered by the Complainant to support the request to reduce the rental rate from \$3.00 to \$1.00. With respect to the Complainant's request to change the vacancy rate for the anchor tenant space occupied by Canadian Tire from 1% to 4%, the Board notes that the Complainant submitted no evidence to support such request and accordingly the Board denies the request and confirms that vacancy rate at 1%. The remaining issue of whether the Respondent's proposed change to main floor retail area Net Rental Rate from \$14.00 to \$10.00 or the change requested by the Complainant for the change to be to \$8.00 will result in a correct and fair assessment.

The Board is not persuaded by the Complainant's equity or lease rate comparables that the rate needs further adjustment from \$14.00 other than the adjustment to \$10.00. The Board agrees that the rate of \$14.00 could not be supported by the Respondent's evidence however it is supportive of the \$10.00 Net Rent Rate as proposed and will result in a correct and fair assessment and so orders the Net Rental Rate be adjusted to \$10.00 and the assessment revised to \$13,370,000.

DATED AT THE CITY OF CALGARY THIS 30th DAY OF July 2010.



for L. Patrick
Presiding Officer

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*