

**CITY OF CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

**BETWEEN:**

***Altus Group, COMPLAINANT***

and

***The City Of Calgary, RESPONDENT***

**BEFORE:**

***J. Krysa, PRESIDING OFFICER***

***A. Zindler, MEMBER***

***S. Rourke, MEMBER***

A hearing was convened on July 8, 2010 in Boardroom 8 at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>054013503</b>
<b>LOCATION ADDRESS:</b>	<b>1107 33 Street NE</b>
<b>HEARING NUMBER:</b>	<b>59630</b>
<b>ASSESSMENT:</b>	<b>\$14,210,000</b>

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is a 291,927 square foot (sq.ft.) parcel of land improved with a 2 storey multi-tenant, retail building constructed in 1980, containing a total area of 135,866 sq.ft. comprised of 85,866 sq.ft. on the main floor, and 50,000 sq.ft. on the second floor.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The Assessment Review Board derives its authority under Part 11 of the Act. No specific jurisdictional or procedural matters were raised during the course of the hearing.

**PART C: MATTERS / ISSUES**

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter number 3, an assessment amount. The Complainant set out 5 reasons for complaint in Section 5 of the Complaint form, however, the Complainant stated only the last issue was in dispute:

Issue 1: The rental rate of \$8.00 per sq.ft. applied to the anchor space is inequitable and not supported by market indicators. There was no objection to the lease rates of the non-anchor components of the subject property.

The Complainant submits that a correct, fair and equitable assessment value is \$ 10,650,000.

**Issue 1:** The rental rate of \$8.00 per sq.ft. applied to the anchor space is inequitable and not supported by market indicators.

The Complainant submitted a lease analysis of 10 retail properties ranging in size from 94,626 sq.ft. to 158,022 sq.ft. with the sample leases commencing from March 1996 to March 2008. The analysis displayed lease rates that range from a low of \$4.00, to a high of \$14.50 per sq.ft., concluding that lease rates for "Anchor Tenants" average \$8.95, with a weighted average of \$8.78, and a median of \$7.90 per sq.ft. [C1 pg. 33]. The Complainant also submitted a "Wal-Mart" 20 year anchor lease calculation, indicating a present value lease rate to be \$8.02 per sq.ft. [C1 pg 35].

The Complainant also put forward several board decisions from 2009 pertaining to anchor tenant lease rates with the majority decided at \$7.00 to \$8.00, [C1 pgs 48-177], as well as some 2010 anchor tenant equity comparables at \$5.00 [C1 178-192]

The Respondent submitted a listing of 5 comparable leases in NE Calgary, plus lease details of the leases within the subject property. The comparable lease rates range from a low of \$8.00 to a high of \$13.62 per sq.ft., [R1 pg. 14]. The Respondent also submitted list of 5 retail equity comparables in NE Calgary, assessed at retail market rents between \$10.00 and \$14.00 to indicate that the subject property is assessed fairly and equitably with similar, competing properties. [C1 pg 13].

**Decision- Issue 1**

The Board finds that the Army and Navy tenant is not an anchor tenant in the subject property, and the retail market rent coefficient of \$8.00/sq.ft. is not excessive, nor inequitable.

Although the Board was uneasy by the limited amount of lease evidence presented by the Respondent, the Board accepts the Respondent's lease analysis at page 14 of R1 as being more representative of current typical market rents in NE Calgary. The Board was not persuaded by the Complainant's city-wide, anchor tenant lease analysis due to the fact that it included several leases commencing more than 10 years prior to the valuation date, as well as the "Zellers – Town and Country" lease, which the Board found to be an outlier in relation to the others. Further, the Board noted that only 1 lease (Wal-mart in Deerfoot Outlet Mall) was a freestanding retail space type, and it was assessed at \$8.00 per sq.ft., as is the subject property.

The Board also found that the Complainant's Rona / Revy portfolio (2002) sales analysis indicated typical lease rates for the Calgary properties, as well as the entire Canadian portfolio to be approximately \$10.00 per square foot [at C1 pg 39].

With respect to equity, the Board found that the subject property could not be compared to the Complainant's equity comparables, which were major anchor tenants located in shopping malls. The lease rates offered to these tenants reflect the fact that they attract clientele to a shopping centre with a significant area of CRU spaces, unlike the subject property.

**PART D: FINAL DECISION**

The assessment is confirmed at \$14,210,000.

Dated at the City of Calgary in the Province of Alberta, this 06 day of August, 2010

  
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J. Krysa  
Presiding Officer

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE COMPOSITE ARB:**

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1 Complainant's Brief
2.	Exhibit R1 Respondent's Brief

**APPENDIX 'B'****ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. A. Izard	Representative of the Complainant
2. D. Joehnck	Representative of the Respondent
3. S. Turner	Representative of the Respondent

*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.*