

**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-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K Williams, PRESIDING OFFICER

Ian Fraser, MEMBER

Peter Charuk, MEMBER

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

ROLL NUMBER: 201358751

LOCATION ADDRESS: 9630 Macleod Trail SE

HEARING NUMBER: 59859

ASSESSMENT: \$16,820,000

This complaint was heard on 6th day of August, 2010 at the office of the Assessment Review Board located at 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *A. Izard, Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *B. Duban, Assessor, the City of Calgary*

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

No preliminary, procedural or jurisdictional matters were raised

Property Description:

The property is a 156,955 square foot (sq ft) Rona Home & Garden (Classified as a CM0206 Retail/Store – Big Box Store) on an 8.62 acre site located in the Community of Acadia.

Issues:

Assessable Area – the total area and the allocation between the mezzanine, the garden centre and the retail anchor of the property is incorrect, needs to be corrected and utilized in the determination of the assessed value.

Anchor Rental Rate - the assessed rental rate for the retail anchor area reduced from \$10.00 per square foot (psf) to \$8.00 psf.

Mezzanine Rental Rate - the assessed rental rate for the mezzanine area reduced from \$3.00 (psf) to \$1.00 psf.

Complainant's Requested Value:

\$11,530,000

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

Both the Complainant and the Respondent presented a wide range of relevant and less relevant evidence in respect of the issues.

Assessable Area

Complainant

The Complainant's evidence supported the confusion over the assessable area of the subject property. The drawings on pages 24/25 report one area, the 2010 Business Assessment reports a different area and the rent roll reports a third different area. The rent roll reports a total area of 126,883 sq ft.

Respondent

The Respondent presented as evidence the Assessment Request for Information (ARFI) signed on April 6, 2010 and the tenant rent roll presented to the Respondent on April 13, 2009. Based on both of the documents the total rentable area is 126,883 sq ft. which includes the mezzanine.

Board's Decision

The Composite Assessment Review Board (CARB) reviewed the evidence presented by the Complainant and the Respondent with particular attention to the tenant rent roll and the ARFI. The Board accepts that the rentable area is 126,883 sq ft. As indicated on the tenant rent roll.

Anchor Rental Rate**Complainant**

The Complainant presented on page 36 of the evidence package a table titled Retail Anchor Tenant Rental Analysis for rentable areas greater than 100,000 square feet. The analysis of the assessed rental rates for the 10 big boxes reported a weighted average rental rate of \$8.62 psf and a median rental rate of \$9.00 psf. The most recent lease start date of the 10 comparables was March 2008 with a rate of \$10.00 psf.

The Complaint argued that the lease rates which resulted from the 2002 sale and lease back of selected stores of the Rona/Revy portfolio reflects a multi dimensional business transaction and not a real estate transaction. Details of the Rona/Revy Portfolio Sale in 2002 were presented in a table on page 36 of the evidence. It was argued that the lease rate reported of \$11.25 psf is not reflective of a real estate transaction and should not be considered as support for the assessment.

In support of the requested assessed rental rate the Complainant presented a number of Board Orders from the Municipal Government Board ("MGB") and Assessment Review Board ("ARB") which established the 2009 Assessment net market rental rate for business assessment as well as for property assessment at \$8.00 psf. Additionally the Complainant referred the CARB to the July 6, 2010 Board Order 0708/2010 which decided that the rental rate be \$8.00 psf for the Walmart which is adjacent to the subject property.

Respondent

The lease comparables (page 22 of the evidence package) reported lease particulars for 7 retailers. As one of the comparables was the subject property and one was *post facto* (lease 2009-09) the Board considered 5 of the comparables. An analysis of the presented data determined that the average area was 98,962 sq ft and the weighted average rent was \$13.01 psf. The most recent lease start date of the 5 comparables was March 2008 with a rate of \$14.50 psf.

The equity comparables (page 23 of the evidence package) provided the area and the Sub-Property Use Code for 38 retailers which were assigned an assessment rental rate of \$10.00 psf. The subject property has an area of 126,883 sq ft, is a use code CM0206 and was assigned a rental rate of \$10.00 psf. An analysis of the size of the 38 determined that the area ranged from 74,555 to 207,987 sq ft. If the 207,987 sq ft property which is 46,522 sq ft larger than the next largest is excluded the area ranged from 74,555 to 169,339 sq ft. An analysis by use code of the 38 comparables determined that 12 were CM0206 Big Box Store which is the same use code as the subject and the size of the 12 ranged from 78,889 to 169,339 sq ft. An analysis of the 4 Rona's determined that they ranged in area from 92,956 to 152,313 sq ft and were use code CM0206.

The Respondent presented as evidence, ARB Board Order 0264/2010 which confirmed the net market rental rate of \$10.00 in respect of the business assessment for the subject property.

Board's Decision:

The CARB reviewed the evidence presented by the Complainant and the Respondent with particular attention to the lease and equity comparables.
Based on the evidence the CARB confirmed the rental rate at \$10.00 psf.

Mezzanine Rental Rate**Complainant**

The complainant presented a lengthy analysis of mezzanine space in support of the rental rate.

Respondent

The Respondent presented as evidence the Assessment Request for Information (ARFI) signed on April 6, 2010 and the tenant rent roll presented to the Respondent on April 13, 2009 both of which report the mezzanine space being utilized as office space.

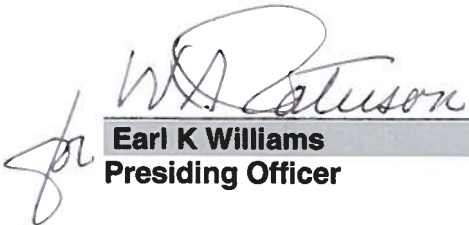
Board Decision

Based on the evidence the CARB confirmed the rental rate at \$10.00 psf. for the mezzanine space.

Board's Decision:

Revised assessment is \$15,770,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF September 2010.


Earl K Williams
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.*