

**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, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Hatem Naboulsi, PRESIDING OFFICER

A. Blake, MEMBER

J. Joseph, MEMBER

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

ROLL NUMBER: 200 533 982

LOCATION ADDRESS: 3633 WESTWINDS Drive NE

HEARING NUMBER: 59171

ASSESSMENT: \$22,030,000

This complaint was heard on the 12th day of August, 2010 at the office of the Assessment Review Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #1.

Appeared on behalf of the Complainant:

- Andrew Izard *Altus Group, Inc.*

Appeared on behalf of the Respondent:

- Edwin Lee *The City of Calgary*
- Brenda Thompson *The City of Calgary*

PRELIMINARY MATTERS:

Prior to the start of the hearing both parties agreed to the new revised area calculation which resulted in a new assessment value of \$19,800,000.

BACKGROUND AND PROPERTY DESCRIPTION:

The subject property is a 908,396 square foot (s/f) parcel of land improved with a revised area calculation to 186,822 s/f. Constructed in 2005 and operated as a "Superstore" retail outlet, the subject is located in the Westwinds area of North East Calgary.

The building contains 155,753 s/f retail area, 24,620 s/f of mezzanine area, one gas bar, and 6,448 s/f of liquor store.

The parties clarified at the outset of this hearing that the only issue that remained in dispute was the lease rate. The Complainant was requesting an \$8.00 per square foot (PSF) rate while the Respondent defended the rate of \$10.00 used in reaching the original assessment.

ISSUE:

What is the appropriate rental rate to be applied in determining the property assessment for the subject property?

POSITION OF THE COMPLAINANT:

The Complainant submitted a lease analysis of 10 retail properties ranging in size from 94,626 s/f to 158,022 s/f with the sample leases commencing from March 1996 to March 2008. The analysis displayed lease rates that range from a low of \$4.00 PSF to a high of \$14.50 PSF, concluding that the lease rate analysis average was \$8.95 PSF, with a weighted average of \$8.78 PSF and a median of \$7.90 PSF (C-1, page 34).

The Complainant also submitted a "Walmart" 20 year term anchor lease calculation indicating a present value lease rate to be \$8.02 PSF (C-1, page 36). The Complainant's position was that the correct rental rate for the subject should be \$8.00 PSF to be equitable to Zellers at Signal Hill and Shawnessy Power Centre.

It was argued that the subject property and other big box comparables had their rental rate reduced to \$8.00 PSF in 2009 at ARB and MGB but all were increased to \$10.00 PSF for 2010 except for Zellers, which remains at \$8.00 PSF. The Complainant requested that the Respondent clarify the dissimilarity between the two Zellers at Signal Hill and Shawnessy, and the subject.

The Complainant requested that the board reduce the 2010 assessment to \$16,100,000 based on equity with Zellers' \$8.00 PSF rental rate.

POSTION OF THE RESPONDENT:

The Respondent submitted a lease analysis of seven retail properties ranging in size from 72,053 s/f to 152,313 s/f with the sample leases commencing from September 1998 to September 2009, concluding that the lease rate analysis average is \$11.72 PSF (R-1, page 23). Three of the seven leases were also utilized by the Complainant lease rate analysis.

The Respondent also submitted 30 equity comparables for big box retail stores over 70,000 s/f (R-1, pp 20-21) and requested that the Board not disturb the equity among these comparable properties.

The Respondent introduced a number of documents including a sale (R-1, page 30) identifying the relationship between Walmart, Calloway Reit and First Professional Realty. The Respondent submitted that the nature of their inter-related business agreement creates a non-arm's length relationship and as such reduces the reliability of indicated value for those comparables.

DECISION:

The decision of the Board is to confirm the 2010 revised calculated assessment of \$19,800,000.

REASONS:

The Board accepts comparables 1, 2, 3 and 4 of the Respondent (R-1, page 23) as being more representative of current typical market rents for similar space:

Address		S/F				\$ PSF
1.	6880 – 11 St. SE	Trail Appliances	124,243	Sep '09	5 yrs	\$9.59
2.	11940 Sarcee Tr. NW	Canadian Tire	95,423	March '08	20 yrs	\$14.50
3.	12330 Symons Valley Rd. NW	Rona	99,650	Nov '07	20 yrs	\$14.50
4.	3451 Sunridge Way NE	The Brick	74,074	Feb '04	10 yrs	\$8.80

The Board noted that the comparables 2 and 3 are common to both parties.

The average of these comparables is \$11.85 PSF. The assessment of the subject property is \$10.00 PSF.

The Board was not persuaded by the Complainant's lease rate analysis due to the fact that it included several leases commencing more than ten 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.

The Board did not find it necessary to look into the Complainant's four Walmart leases and found the four comparables submitted by the Respondent listed above persuasive in their similarity to the subject.

The Board also finds that the 30 equity comparables submitted by the Respondent support the assessment. No compelling evidence was provided by the Complainant to disturb the assessment of the subject property.

DATED AT THE CITY OF CALGARY THIS 31st DAY OF August, 2010.



HATEM NABOULSI
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.*