

**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 Limited and AEC International, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

R. Reimer, PRESIDING OFFICER

A. Zindler, MEMBER

D. Pollard, 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: 200094522

LOCATION ADDRESS: 4705 – 130 Ave SE

HEARING NUMBER: 57578 & 59710

ASSESSMENT: \$39,440,000

This complaint was heard on 30th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Kam Fong, Altus Group Ltd., Agent*
- *Brigette Soulier, AEC International, Agent*

Appeared on behalf of the Respondent:

- *Eddie Lee, Assessor*
- *Ian McDermott, Assessor*

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

There was no objection to the composition of the Composite Assessment Review Board (CARB).

There were no other procedural or jurisdictional matters raised.

Property Description:

The subject property is a portion of a retail power centre known as South Trail Crossing and constructed in 2002. The rentable area involved in this complaint is 215,399 sq. ft. on a 19.94 acre site. Tenants involved in this complaint include Walmart, London Drugs and Mark's Work Warehouse, among others. Walmart was represented separately by AEC International.

Issues:

On the Assessment Review Board Complaint Form for hearing number 57578, the Complainant had checked both box 3, the assessment amount, and box 4, the assessment class. The Complainant indicated that he intended to only present evidence regarding the assessment amount. On the Assessment Review Board Complaint Form for hearing number 59710, the Complainant had checked only box 3, the assessment amount. Consequently, the CARB will only address the assessment amount.

Complainant's Requested Value:

On the Assessment Review Board Complaint Form the Complainant had requested a value of \$28,630,000 for the entire subject property. The Complainant representing Walmart had requested a value of \$12,323,000. At the hearing the requested value for the entire subject property was revised to \$33,510,000. The requested value for Walmart was revised at the hearing to \$12,598,000.

Position of the Parties:

Altus Group Ltd. (Altus) presented on behalf of the entire subject property but deferred to AEC International (AEC) on Walmart. We will start by examining the position of Altus. Altus stated that there were four objectives in this complaint. First was a reduction in the rental rate applied to the anchor tenant, Walmart, from \$10/sq. ft. to \$8/sq. ft. Second was a reduction in the rental rate

applied to the "Box Store" between 20,000 and 70,000 sq. ft., occupied by London Drugs, from \$16/sq. ft. to \$15/sq. ft. The third objective was a reduction in rental rate applied to stores of greater than 6000 sq. ft and less than 15,000 sq. ft. and the final objective was a correction of a small discrepancy in the area of London Drugs.

In support of objective two, the Complainant presented, on page 39 of exhibit C2, 44 lease comparables for big box stores with areas between 20,000 and 70,000 sq. ft. These 44 comparables showed a range of \$9.10-\$22.50/sq. ft. with a median of \$15.00/sq. ft. and an average for the 2010 assessment year of \$15.05. The Complainant submitted that a rental rate of \$15.00/sq. was a reasonable and equitable value.

Altus provided no evidence in support of objective two, the reduction in rental rate applied to stores of greater than 6000 sq. ft and less than 15,000 sq. ft.

Regarding objective four, the correction of a small discrepancy in the area of London Drugs, Altus provided, on page 28 of exhibit C2, a copy of the Assessment Request for Information (ARFI) dated April 16, 2009. The ARFI shows a leased area per suite for London Drugs of 39,146 sq. ft. It also shows a total leased area for London Drugs of 39,047. On page 29 of exhibit C2, Altus provided the rent roll, which indicates an area of 39,047 sq. ft. for London Drugs.

As previously indicated, Altus deferred to AEC for the presentation regarding Walmart. AEC requested a reduction in the rental rate from \$10/sq. ft. to \$8/sq. ft. and an increase in the capitalization rate (cap rate) from 7.50% to 8.00%.

In support of the request for a rent reduction, AEC provided, on page 20 of exhibit C2-59710, a lease analysis of ten big box, free standing properties. This analysis indicated a face rent range of \$4 - \$10/sq. ft. with an average of \$7.63 and a median of \$7.89/sq. ft.

AEC also provided, on pages 23 & 24 of exhibit C2-59710, an analysis of the sale of a vacant Walmart building located in Edmonton. The building had sold on January 15, 2008 for \$15,000,000. This analysis indicates that, using the City of Edmonton parameters, and a cap rate of 7.0%, the sale price supports a rental rate of \$8.29/sq. ft.

On pages 25 & 26 of exhibit C2-59710, AEC provided a post-facto sale of a similar sized building to the subject property. This building had sold January 4, 2010 for \$10,250,000. The 2010 assessment of this building was \$14,870,000, or 45% higher than the sale price.

In support of their request for a change in the cap rate from 7.50% to 8.00%, AEC provided market surveys by Colliers International and CB Richard Ellis. Colliers International indicated a second quarter, 2009 cap rate for retail power centres of 7.50% - 8.00%. CB Richard Ellis indicated that a range of 7.15% - 8.00% for the same period and property type was appropriate.

Both Altus and AEC provided a number of previous decisions of the Calgary Assessment Review Board (ARB) as well as the Municipal Government Board (MGB) which supported their positions.

The Respondent provided, on page 19 of exhibit R1, seven lease comparables with a range of \$9.59 - \$15.27/sq. ft. and an average of \$12.37/sq. ft. The Respondent also provided, on page 20 of exhibit R1, a table with 35 equity comparables. All were assessed using a rental rate of \$10/sq. ft. 32 had filed assessment complaints of their 2010 assessments. At the time of the hearing, 19 had been confirmed at \$10/sq. ft., 2 had been reduced to \$8/sq. ft. and 11 were outstanding.

The Respondent provided, on page 356 of exhibit R1, a 2010 Power Centre Capitalization Rate Summary. This consisted of 8 sales of properties ranging from 62,751 sq. ft. to 174,814 sq. ft. The cap rate range was 4.31% - 7.67% with a median of 5.81%, compared to an assessed cap rate of 7.50%.

The Respondent also provided a number of previous ARB and MGB decisions which supported his position.

Board's Decision:

The CARB considered the AEC complaint first. The CARB finds that the Respondent's evidence regarding the rental rate is sufficient to indicate that the assessment is fair and equitable. In particular the assessment comparables were considered compelling. The Complainant has failed to demonstrate to the satisfaction of the CARB that \$10/sq. ft. is inequitable.

Regarding the cap rate, the Respondent's evidence indicates that the current cap rate of 7.50% is fair and reasonable. The cap rate fits within the range suggested by both CB Richard Ellis and Colliers International.

The CARB next considered the Altus request for a rental rate reduction for the "Box Store" between 20,000 and 70,000 sq. ft., occupied by London Drugs. The CARB accepts the Complainant's evidence that \$15/sq. ft. is a fair and equitable rental rate to be applied to this size of store.

The CARB rejects the Complainant's request for a reduction in the rental rate applied to stores of greater than 6000 sq. ft and less than 15,000 sq. ft. as insufficient evidence was presented.

The CARB also rejects the Complainant's request for a reduction in the area of the London Drugs store as the evidence provided was contradictory and inconclusive.

The CARB orders that the assessment be revised as follows:

<u>Space Type</u>	<u>Rentable Area</u>	<u>Net Market Rent</u>	<u>Total Rent</u>
Walmart Canada	130,032	\$10.00	\$1,300,320.00
CRU <1000	800	\$30.00	\$24,000.00
CRU 1000-2500	7,665	\$28.00	\$214,620.00
CRU 2501-6000	19,120	\$26.00	\$497,120.00
CRU >6000	18,637	\$21.00	\$391,377.00
London Drugs	39,145	\$15.00	<u>\$587,175.00</u>
Potential Gross Income			\$3,014,612.00

Vacancy Rate

Major 1.0%
Other 2.0%

Valuation Parameters

Vacant Space Shortfall - \$9.00
Non-Recoverable Allowance – 1.00%
Capitalization Rate – 7.50%

Vacant Space Shortfall

Typical Vacancy 3007.66 @ \$9.00 = \$27,068.94

Effective Gross Income

Potential Gross Income	\$3,014,612.00
Major Vacancy @ 1.0%	\$13,003.20
Other Vacancy @ 2.0%	<u>\$34,285.84</u>

Effective Gross Income \$2,967,322.96

Vacant Space Shortfall \$27,068.94

Non-Recoverable Allowance \$29,673.23

Net Operating Income \$2,910,580.79

Market Value @ 7.50% Capitalization Rate = \$38,807,747

Valuation Conclusion \$38,800,000

DATED AT THE CITY OF CALGARY THIS 12 DAY OF October 2010.



R. Reimer
Presiding OfficerAppendix A:**Documents submitted by the Parties and considered by the CARB**

1. C1 Assessment Review Board Complaint Form
2. C1-59710 Assessment Review Board Complaint Form
3. C2 Evidence Submission of the Complainant
4. C2-59710 Evidence Submission of the Complainant
5. C3-59710 Rebuttal Evidence
6. R1 Evidence Submission 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.*