

**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:

***Board Chair, T Golden
Board Member, H Ang
Board Member, D Cochrane***

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: 085128403

LOCATION ADDRESS: 5858 Signal Hill CE SW

HEARING NUMBER: 59691

ASSESSMENT: \$17,880,000.00

This complaint was heard on 2 day of November, 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:

- *C Fong*

Appeared on behalf of the Respondent:

- *P Sembrat*

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

There were no preliminary matters.

Property Description:

The subject property is part of a power centre mall and contains commercial and automotive uses on an 11.49 acre site. An income approach was used to develop the assessment. The complaint involves the rental rate applied to commercial retail unit (CRU) with an area of 6451 square feet (sq ft) and the equity of the assessment on the retail big box Superstore containing 115,675 sq ft.

Issues:

- 1) Is the big box retail portion of the property assessed equitably using a rental rate of \$10.00 sq ft compared to similar properties?
- 2) Is the CRU rental rate the correct rate to be applied?

Complainant's Requested Value:

Based on the Complainants opinion of both the CRU rental rate and the equitable assessment of the big box retail the requested assessment is \$14,100,000.00

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

- 1) The assessment regarding the big box retail is equitable and requires no adjustment.

The Complainant suggested that the Respondent should have used a rental rate of \$8.00 sq ft in the income approach valuation rather than the \$10.00 rate actually applied. The requested \$8.00 rate was based upon an equity argument using the assessment of a big box retail store adjacent to the subject. It was argued that an assessed property must be equitable to similar properties in close proximity. For comparison the Complainant presented the Zellers property immediately adjacent to the subject and in the same power mall. The comparable property is assessed using a rental rate of \$8.00 per ft and is of similar size to the subject. A Wall Mart in the same quadrant of the City, assessed using the rental rate of \$8.00 sq ft, was briefly discussed as supporting evidence of inequity.

The Respondent made two points regarding the equity of the assessment. Firstly the Board was presented with a table of 9 equity comparables containing all the Superstore outlets in the City all assessed using the \$10.00 rental rate. During questioning of the Respondent the table was clarified that one of the comparables on the list was reduced by a CARB decision to \$8.00 and there was one other outlet not included however it was also assessed using \$10.00 for a rental rate. The second argument to defend the assessment was that the Zellers store was not a good comparable as there are differences in the quality of the structures and leasing practices. In the opinion of the Respondent this resulted in CARB decisions to support an \$8.00 rental rate for Zellers properties and a \$10.00 rental rate on other properties such as Canadian Tire Superstores and Home Depot as demonstrated on an additional table in the respondents evidence.

The correctness of the assessment was not an issue in the hearing only the equity of the assessment. The Board understands the principal that assessments must be equitable and looks to similar structures with similar conditions to measure the equitable nature of an assessment. The Wall Mart comparison was not considered by the Board to be comparable as it was located some distance from the subject and in a different setting which in the Boards opinion could affect rental rates. Little detail of this comparable was submitted to ensure comparability.

The Zellers property was the main comparable considered by the Board. However, the Complainant was unable to adequately demonstrate to the Board that the Zellers was in fact a close comparable. Although the sizes and location of the two properties were similar the Complainant was unable to provide enough information regarding such items as building interior finish or quality, wall height or structural quality, to convince the Board that this one property was a good comparable. The Board noted that the Respondents evidence recognized a difference between Zellers properties and other big box retail uses and these differences were not clearly addressed by the Complainant.

The Respondents evidence supporting the equity of the assessment and that the assessment was correct was supported by stronger evidence compared to the Complainant. The Board placed significant weight on the Respondents equity comparables and the evidence that demonstrated differences between the subject and the one comparable used by the Complainant.

2) The CRU rental rate \$28.00 is the correct rate to be applied to this assessment.

The Complainant requested the Board to reduce the rental rate on the CRU to \$19.00 from the \$28.00 used by the respondent to calculate the assessment. The property in question is a 6451 sq ft liquor store in a freestanding structure. The requested rate is based upon evidence provided to the Board including a review of 20 liquor stores of greater than 3000 sq ft in size located in different areas of the City. This evidence based on the comparables used shows a median rate of \$ 19.00 sq ft and an average of \$18.65.

In defence of the rental rate of \$28.00 the Respondent suggested to the Board that the subject should be considered as a CRU and therefore compared to other CRU leases and not just liquor stores as provide by the Complainant. The Respondent provided 5 CRU lease rates from units within the power centre with sizes between 4292 sq ft and 6523 sq ft all marketing goods and services. These leases demonstrated rates between \$33.00 on a pad site similar to the subject to \$25.00.

The Board agreed with the Respondent that even though the subject is a liquor store it is a standalone structure and capable of becoming a store to market a variety of products. The

strongest comparisons are therefore those CRUs of similar size and in the same location as represented by the Respondents evidence. The rental rates showed by the Respondent support the assessment. The comparables presented by the Complainant were given less consideration as they were located in areas some distance from the subject and several based on photo evidence not comparable to the subject.

Board's Decision:

The assessment is confirmed at \$17,880,000.00

DATED AT THE CITY OF CALGARY THIS 25 DAY OF November 2010.

A handwritten signature in blue ink, reading "Tom Golden", is written over a horizontal line.

**Tom Golden
Presiding Officer**

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C-1 Letter of Complaint
2.	Exhibit C-2 Complainants Brief
3.	Exhibit R-1 Respondent's Assessment Brief
4.	Exhibit R-2 Respondents Package of Decisions

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.*