

**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 Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Chilibeck, PRESIDING OFFICER

P. Pask, MEMBER

J. Rankin, 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: 200293173

LOCATION ADDRESS: 5251 – COUNTRY HILLS BLVD NW

HEARING NUMBER: 59180

ASSESSMENT (2010): \$19,850,000.

This complaint was heard by the Composite Assessment Review Board on 19 day of October, 2010 in Boardroom One at the office of the Assessment Review Board located on Floor Number Four at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- *D. Hamilton*

Appeared on behalf of the Respondent:

- *B. Thompson*

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

There were no objections to the composition of the Board.

The Respondent advised the Board that a revision to the assessment is requested to reflect the deletion of the fast food restaurant as a separate category as the restaurant space is included in the area for the big box (Superstore). The revised assessment is \$19,650,000.

Property Description:

The subject property is a suburban big box shopping centre property in northwest Calgary known as the Real Canadian Superstore. This property consists of 601,722 square feet (sq. ft.) of land improved with 140,262, sq. ft. big box grocery store with 5,434 sq. ft. mezzanine and 556 sq. ft. fast food restaurant, 6,451 sq. ft. free standing liquor store and a gas bar.

Issues:

The ARB Complaint form identified several reasons for complaint. However at the outset of the hearing, the Complainant clarified there were four reasons:

- 1) The assessed area of the main floor of the big box grocery store is incorrect.
- 2) The fast food restaurant within the grocery store should not be assessed.
- 3) The rental rate for the grocery store is incorrect.
- 4) The rental rate for the liquor store is incorrect.

Complainant's Requested Value: \$15,670,000.

This request was amended during the hearing to \$15,740,000 by changing the vacancy rate from 4% to 2% for the non-big box space, thereby accepting the Respondent's assessed vacancy rate.

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

Issue 1) & 2)

The Complainant agreed with the Respondent's request to delete the assessment for the fast food restaurant as a separate category and agreed to the area of 140,262 sq. ft. for the big box

category (Superstore). This area includes the area for the fast food restaurant.

Issue 3)

The Complainant requested the rental rate for the big box store be changed to \$8 from \$10 per sq. ft. This request was supported by a "Retail Anchor Tenant Rental Analysis" of seven tenants showing a rental rate at a median of \$7.90 and average of \$8.95 per sq. ft. and assessed rate at a median of \$9.00 and average \$8.60 per sq. ft. The lease start dates range from March, 1996 to March, 2008 and have a term of 15 to 20 years. Two 2008 leases are at a rent rate of \$14.50 and an assessed rate of \$10 per sq. ft.

Many Board decisions, (MGB, ARB & CARB) regarding business tax and property assessment were provided by the Complainant in support of their request for the \$8 rental rate with most of the decisions pertaining to the 2009 assessments. There are two 2010 Board decisions, one for business tax and one for property assessment, where the board changed the rental rate to \$8 per sq. ft. The property assessment decision is for the Wall-Mart on Macleod Trail and the business tax decision is for the subject property.

The Respondent did not provide any market lease/rent rate comparables. The Respondent drew the Board's attention to Zellers lease rate of \$4 per sq. ft. in the Complainant's tenant rental analysis and advised that this rate is not an arms-length transaction.

The Respondent provided numerous 2010 Board decisions for business tax and property assessment of similar properties wherein the rental rate was confirmed at \$10 per sq. ft. in support for the subject's assessed rental rate of \$10 per sq. ft. The Respondent questioned the Complainant's use of 2009 decisions regarding the 2010 assessment of the subject and suggested they are not relevant to this complaint. The Respondent referenced Board decisions 281-2010-B and 708-2010-P, wherein the rental rate was reduced to \$8, and opined that the Board misunderstood some of the facts in those cases and believes the decision is flawed.

The Board is not persuaded by the Complainant's tenant rental analysis to reduce the assessed rental rate because it included several leases commencing more than 10 years prior to the valuation date. Also, the Board finds the Zellers – Town & Country lease at \$4 per sq. ft. to be an outlier. If the leases within the 10 years of the valuation date were used in the analysis except for the Zellers lease, the Board finds this would support the assessed rental rate of \$10. The Board notes that the more recent leases are trending upwards in the \$10 to \$14.50 range.

In reviewing the numerous Board decisions advanced by both parties, the Board finds the 2010 decisions most relevant. Each Board decision is based on the evidence and argument presented at the hearing and the Board notes that the recent Board decisions are supportive of the Board's findings in this case.

Issue 4)

The Complainant submitted five assessed rate comparables from NW Calgary. The rates range from \$18 to \$22 per sq. ft. that have a median of \$21 and an average of \$20.20 per sq. ft. in support for their requested rate of \$20. One comparable, at \$22, is for a liquor store on a property adjoining the subject.

The Complainant submitted two 2010 Board decisions, one for business assessment on the

subject liquor store and another for property assessment on a different shopping centre, in support for the requested rate. In the business decision the Board reduced the business assessment rate for a stand-alone liquor store to \$19 per sq. ft. In the property decision the Board reduced the rental rate for CRU space (within a neighbourhood shopping centre) greater than 6000 sq. ft to \$18 per sq. ft.

The Complainant submitted a list of nine 2010 business assessment rate comparables of liquor stores in the City of Calgary. The rates range from \$18 to \$20 per sq. ft. that has a median of \$19 and average of \$19.11 per sq. ft. in support for the requested rate of \$20.

The Respondent provided a lease rate comparable chart listing ten leases in support of the assessed rate of \$26. The lease rates range from \$21.50 to \$36 per sq. ft. The Board placed no weight on the Respondent's lease rate comparables because of a lack of information. The chart appears to be incomplete as no lease start dates, areas or tenant names are shown. Also, there is information shown on the chart that is not identified.

The Board placed little weight on the CARB property decision because it noted that 11 comparables were used versus five in the subject's case and that the Respondent conceded to a correction to \$18 per sq. ft. This indicates that the evidence presented is not the same in the CARB case and the subject case. Regarding the business tax decision, the Board is not clear as to what evidence was before that Board versus this Board and therefore placed little weight on this decision.

The Board is persuaded by the Complainant's property assessed rate comparables to reduce the assessed rental rate. The Board placed most weight on the comparable from the adjoining property that is assessed at \$22 per sq. ft.

Board's Decision:

Based on the foregoing, the Board confirms the big box (grocery store) rental rate at \$10 per sq. ft. and changes the liquor store rental rate to \$22 per sq. ft. Therefore the 2010 assessment is changed to \$19,340,000.

DATED AT THE CITY OF CALGARY THIS 10th DAY OF NOVEMBER 2010.


for Myron Chilibeck
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB**

No.	Item
1.	Exhibit 1C
2.	Exhibit 2C
3.	Exhibit 3C

	Complainant's Evidence Package
	Complainant's Revised Assessment Request
	Respondent's Evidence Package (in three parts)

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.*