

**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 Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER

P. Charuk, MEMBER

E. Reuther, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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: 201058856

LOCATION ADDRESS: 11938 SARCEE TR NW

HEARING NUMBER: 59281

ASSESSMENT: \$ 12,410,000

This complaint was heard on 8th 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:

- Mr. K. Fong (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Ms. S. Turner (The City Of Calgary)

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

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is a Canadian Tire commercial retail property located in the Sherwood community of NW Calgary. The building has a net rentable area of approximately 109,652 square feet (SF), including 15,026 SF of Mezzanine space. The building is situated on an assessable land area of approximately 347,255 SF and is part of a shopping or "power centre".

The property is assessed using the Income Approach to value with the following parameters:

- Main floor of 94,626 SF is assessed at a rate of \$10.00 per SF with a vacancy rate of 1%.
- Mezzanine space of 15,026 SF is assessed at a rate of \$1.00 per SF with a vacancy rate of 2%.
- Operating costs of \$9.00 per SF at a non-recoverable rate of 1%.
- A Capitalization rate (cap rate) of 7.5%

Issues:

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form are as follows:

1. The subject property is assessed in contravention of Section 293 of the *Municipal Government Act and Alberta Regulation 220/2004*.
2. The use, quality, and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289 (2) of the *Municipal Government Act*.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. This Notice is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources. Therefore the requested assessment is preliminary in nature and may change.
5. The classification of the subject premise is neither fair, equitable, or correct.
6. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.

7. The assessment of the subject property is in excess of its market value for assessment purposes.
8. The assessed cap rate is incorrect and should be 8.5%.
9. The assessed rental rate applied to the Retail Anchor space within the subject property should be \$8.00 per SF.
10. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for Retail Anchors at 4%.

However, as of the date of this hearing, the Complainant addressed the following issue:

1. The rental rate applied to the subject is inappropriately applied and is inconsistent with the equitable interpretation of space in the same parking lot and should be reduced accordingly to \$8.00 per SF.

Complainant's Requested Value:

\$8,590,000 on the complaint form revised to \$9,930,000 at this hearing.

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

ISSUE 1: The rental rate applied to the subject is inappropriately applied and is inconsistent with the equitable interpretation of space in the same parking lot and should be reduced accordingly to \$8.00 per SF.

The Complainant provided the following evidence with respect to this issue:

- A map of the "RIOCAN Beacon Hill" Power Centre development showing the placement of the subject in relation to two other anchor tenants; Home Depot and Costco.
- A previous CARB decision #1215/2010-P which was an appeal involving eight Home Depots located in all four quadrants of the City of Calgary. Those stores were assessed at \$10.00 per SF, but were reduced to \$8.00 per SF as a result of the appeal hearing.
- A "Retail Anchor Tenant Rental Analysis" which compared lease "face" rates and assessment rates of the subject with nine other similar businesses of comparable size, in other shopping centres. The following information was highlighted:
 - Face rates:
 - Canadian Tire (the subject): \$14.50.
 - Three Zellers: ranged from \$4.00 to \$8.00.
 - Two RONAs: ranged from \$14.50 to \$9.39.
 - Four Wal-Marts: ranged from \$6.85 to \$10.00.
 - Median: \$7.90, Average: \$8.95, Weighted average: \$8.78.
 - Assessment rates:
 - Canadian Tire (the subject): \$10.00.
 - Three Zellers: \$8.00.
 - Two RONAs: \$10.00.
 - Four Wal-Marts: ranged from \$7.00 to \$10.00.
 - Median: \$9.00, Average: \$8.60, Weighted average: \$8.62.
- A number of prior year decisions from Calgary Assessment Review Boards and Municipal Government Boards (MGB) reducing the assessment rate to \$8.00 for various retail stores such as; Home Depot, IKEA, Zellers, Wal-Mart, Real Canadian Superstore, Canadian Tire (including the subject), RONA and Costco,

The Complainant concluded his analysis by indicating that the assessment of the subject

property should have an equitable assessment rate of \$8.00 per SF applied to the main floor area of 94,626 SF. In doing so, an equitable assessment of \$9,930,000 would be derived.

The Respondent provided the following evidence with respect to this issue:

- An Assessment Request for Information (ARFI) was provided confirming the subject's lease rate is at \$14.50 per SF with a lease start date of March 5, 2008.
- A listing equity comparables to the subject including Canadian Tires, Costco's, Real Canadian Superstores and Wal-Mart's showing that many of the 2010 CARB decisions have confirmed the \$10.00 assessment rates used by the City of Calgary. The listing also included similar decisions made by the MGB in 2009. In addition many copies of those decisions were included for reference.
- A table entitled "2010 Lease Rate Comparables". The table provided a listing of seven lease rate comparables including the subject. The Respondent highlighted the following information on these properties:
 - Net rentable area range (SF): 72,053 to 152,313.
 - Lease rate per SF range: \$9.59 to \$14.50 (the subject).

The Respondent concluded his analysis by indicating that the subject's assessment rate of \$10 per SF applied to the main floor area is equitably applied.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

- The assessment rate of \$10.00 applied by the Respondent to the main floor space of the subject is equitable with those of similar properties for the following reasons:
 - The lease rate of the subject with a start date of March, 2008 is \$14.50. The assessment rate is well under this lease rate.
 - Numerous 2010 decisions made by Calgary CARB's on similar properties support the \$10.00 assessment rate.
 - The CARB considered the lease rate comparables submitted by both parties. The CARB chose to include in its analysis all comparables common to both the Complainant's and Respondent's analyses, and the last two Zellers submitted by the Complainant in his comparables. The Zellers with the \$4.00 lease rate at 5115 17 AV SE was rejected by the CARB because it was agreed that the rate was heavily influenced by a dated lease that was still in force at the time the newer lease was negotiated. However, the other two Zellers were included because the Respondent failed to establish that they were not comparable to the subject in this case. All other properties were rejected in the analysis because each party took issue with one or more attributes of each others comparables. In analyzing the five comparables the assessment rate is supported with the following information taken from the Complainant's lease rate analysis:

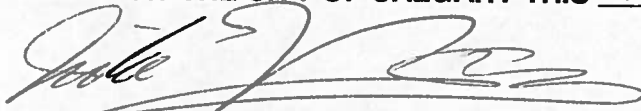
Business Name	Lease Rate per SF	Assessed rate per SF
Rona Home & Garden (Creekside)	\$14.50	\$10.00
Wal-Mart (Royal Oak)	\$10.00	\$10.00
Rona Home & Garden (Crowfoot)	\$9.39	\$10.00
Zellers (Signal Hill)	\$8.00	\$8.00
Zellers (Shawnessy)	\$7.00	\$8.00
Average	\$9.78	\$9.60
Median	\$9.39	\$10.00

Given the above table, the Complainant has failed to establish that an \$8.00 rate applied to the subject's main floor area is warranted.

Board's Decision:

The Board confirms the assessment at \$12,410,000.

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



Michael A. Vercillo

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.*