

**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***

***K. Coolidge, MEMBER***

***R. Deschaine, 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: 156164006**

**LOCATION ADDRESS: 36 SHAWVILLE BV SE**

**HEARING NUMBER: 59221**

**ASSESSMENT: \$ 20,350,000**

This complaint was heard on 24<sup>th</sup> 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. A. Izard (Altus Group Ltd.)
- Mr. K. Fong (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Mr. K. Gardiner (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 Real Canadian Superstore commercial retail property located in the Shawnessy community of SE Calgary. The subject contains three buildings assessed with a net rentable area of approximately 153,486 square feet (SF), including 8,715 SF of Mezzanine space, 6,690 SF of CRU space and a gas bar. The building is situated on an assessable land area of approximately 494,080 SF and is part of the Shawnessy shopping or "power" centre.

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

- "Big Box" or main floor space of 138,080 SF is assessed at a rate of \$10.00 per SF with a vacancy rate of 1%.
- "CRU" or Liquor Store space of 6,690 SF is assessed at a rate of \$21.00 per SF with a vacancy rate of 2%.
- "Gas Bar" is assessed at a Potential Gross Income (PGI) of \$45,000 with a vacancy rate of 2%.
- Mezzanine space of 8,715 SF is assessed at a rate of \$1.00 per SF with a vacancy rate of 2%.
- All space is assessed with 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 vacancy allowance applied to the subject property should be increased to reflect the current market conditions for the CRU retail spaces at 5%.
9. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for the Retail Anchor Space at 4%.
10. The assessed rental rate applied to the Retail Anchor space within the subject property should be \$8.00 per SF.
11. The Liquor Store assessed area and rental rates are incorrect. The rental rate should be no greater than \$19 per SF.
12. The Gas Bar assessed rental area has been incorrectly applied and should be increased from 1 to a minimum of 1,000 SQUARE FEET with a total PGI of no higher than \$45,000.
13. The assessed cap rate is incorrect and should be 8.5%.

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 same spaces within the same shopping centre and should be reduced accordingly to \$8.00 per SF.

**Complainant's Requested Value:**

\$13,680,000 on the complaint form revised to \$16,740,000 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 same spaces within the same shopping centre and should be reduced accordingly to \$8.00 per SF.

**The Complainant's** document of evidence labeled "Exhibit C1" provided the following evidence with respect to this issue:

- External pictures of the subject property, showing the placement and orientation within the "Shawnessy" Power Centre development.
- A number of "Big Box" equity comparables to the subject and related decisions of prior Assessment Review Boards regarding those comparables, showing reduced business and/or property assessment rates of Wal-Marts, Zellers, Real Canadian Superstores, Canadian Tire, and Home Depots, most with reduced assessment rates to \$8.00 per SF.
- 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 (Beacon Hill Centre): \$14.50.
  - Three Zellers: ranged from \$4.00 to \$8.00.
  - Two RONAs: ranged from \$9.39 to \$14.50.
  - Four Wal-Marts: ranged from \$6.85 to \$10.00.
  - Median: \$7.90, Average: \$8.95, Weighted average: \$8.78.
- Assessment rates:
  - Canadian Tire (Beacon Hill Cent): \$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 Business or Property assessment rates for various retail stores such as; Home Depot, IKEA, Zellers, Wal-Mart, Real Canadian Superstore, Canadian Tire, 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 138,080 SF. In doing so, an equitable assessment of \$16,740,000 would be derived.

**The Respondent's document** of evidence labeled "Exhibit R1" provided the following evidence with respect to this issue:

- A table entitled "2010 Lease Rate Comparables". The table provided a listing of six Calgary lease rate comparables including Trail Appliances, two Canadian Tires, two RONAs and a Wal-Mart. The table 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.
- A listing equity comparables to the subject including Canadian Tires, Costco's, IKEA, RONAs, Real Canadian Superstores, Totems, Trail Appliances and Wal-Mart's showing that many of the 2010 CARB decisions regarding the above properties have confirmed the \$10.00 assessment rates used by the City of Calgary. In addition many copies of those decisions and other decisions regarding equity comparable space were included for reference.
- MGB Board Order 020/10 supporting the Respondent's assertion that "Zellers have long been regarded as not comparable to Wal-Mart for reasons of quality of the improvements. But is more determinative for the purposes of this appeal that Zellers also does not have a grocery component, and is dissimilar by reason of content of the improvements too."

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 respect to the similar property for the following reasons:
  - The CARB shares the opinion of some prior Assessment Review Board (e.g.

ARB 0287/2010-B and Municipal Government Board (MGB Board Order 020/10) decisions which differentiate between space that does not have a grocery component (such as the subject) and non-grocery space (e.g. Zellers and Canadian Tire). The infrastructure cost of a building that is designed and built to sell groceries versus those buildings not designed and built to sell groceries is much higher in the former compared to the latter.

- o An assessment rate of \$10.00 applied to the main floor space of the subject is not unreasonable in consideration of the lease rate comparables submitted by both parties.

**Board's Decision:**

The Board confirms the assessment at \$20,350,000.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF December 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.*