

**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, Revised Statutes of Alberta 2000 (the Act).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, I. WELESCHUK
Board Member H. ANG
Board Member E. REUTHER***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER:	031019417
LOCATION ADDRESS:	3310 – 29 Street NE
HEARING NUMBER:	61215
ASSESSMENT:	\$8,420,000

This complaint was heard on 4th day of July, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- *Andrew Izard – Representing Altus Group Ltd. – as agent for Staples Canada Inc.*

Appeared on behalf of the Respondent:

- *Shelly Turner – Representing the City of Calgary*
- *Rob Ford – Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties did not have any objections to the panel representing the Board and constituted to hear the matter. No jurisdictional or procedural matters were raised at the onset of the hearing, and the Board proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is located at 3310 29 Street NE. It is an improved 58,628 square foot (sf) freestanding big box store used as a Staples retail store on a 130,463 sf lot. The property is owner occupied. The subject was originally a hardware/lumber retail outlet built in 1981, and since converted to a big box retail use.

The subject building has three different use areas. The largest area, of 36,363 sf is classified as "Junior Big Box 14,000-50,000 sf". There is also 2,023 sf non-retail mezzanine and 20,237 sf unheated storage space. The property is classified as a Retail-Junior Big Box Store for assessment purposes.

Issues:

1. What is the correct rental rate to be applied to the Junior Big Box portion of the subject to calculate the assessed value of the subject using the income approach?

Complainant's Requested Value: \$7,470,000

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

Both parties:

- a. used the income approach to determine the assessed value of the subject property.
- b. agreed with the area assigned to each use class within the subject property.
- c. agreed with the rental rate assigned to the mezzanine and storage space.
- d. agreed with all the other factors and rates used in the City Assessment to calculate the assessed value including the 7.50% capitalization rate, other than the rental rate assigned to the Junior Big Box 14,000-50,000 sf portion of the subject.

The Complainant stated that the \$17.00/sf rental rate applied to the Junior Big Box portion of the subject was too high and that a rate of \$15.00/sf rental rate was more appropriate. The Respondent presented evidence to support their use of the \$17.00/sf rental rate for this category.

1. What is the correct rental rate?

Both parties presented lease comparables as evidence. The Complainant presented 51 lease comparables for Junior Big Box stores between 20,000 and 50,000 sf, spanning a lease start date from November 1986 to October 2009. The Respondent presented thirty comparables for Junior Big Box stores 14,000 to 50,000 sf, spanning a lease date period of January 2008 to June 2010, including one comparable with a lease date of November 2010. Both sets of comparables represented properties in this size and classification located across the City of Calgary. Some of the comparables presented were common to both the Complainant's and Respondent's evidence.

The Complainant also presented evidence in the way of current listings and recent leases to show that the vacancy rate for similar properties in the subject area was considerable and that lease rates were trending downward. Therefore the Complainant argued that the rental rate for the subject should be based only on comparables from the subject area. The Complainant did not provide any evidence as to the vacancy situation in other parts of the City.

The Complainant stated that for the 2011 assessment year, the City had changed its definition of the Junior Big Box category from properties of 20,000 to 50,000 sf in size to properties of 14,000 to 50,000 sf in size. The Complainant demonstrated that this change in the size of properties in this category was the reason for the Respondent's conclusion of a rental rate of \$17.00/sf. The Complainant stated that stores smaller than 20,000 sf were often used to retail higher valued goods, and also included a higher degree of finish, therefore normally achieved a higher rental rate.

To support a rate of \$15.00/sf, the Complainant presented three recent leases from the subject area, including one that was indicated as a sub-lease and one for a property that was less than 20,000 sf. The Complainant also presented two current listings and highlighted eight comparables presented in their list of 51.

The Respondent stated that the change in the size for the Junior Big Box category was made based upon looking at the data, which indicated that such a change to the size criteria was appropriate. The comparable data presented by the Respondent indicated a mean rental rate of \$18.11/sf and median rental rate of \$17.05/sf. As part of their evidence, the Respondent selected the fifteen comparables from the data presented by the Complainant with leases starting in the March 2008 to November 2009 period, with a size of 20,000 to 50,000 sf and calculated a mean rental rate of \$17.30/sf and median rental rate of \$17.00/sf. They stated that the Complainant's data supported their data and their conclusion that a typical rental rate for a Junior Big Box is \$17.00/sf.

In Rebuttal, the Complainant took the thirty comparables presented by the Respondent and arrayed them by size, then calculated an average and median for the nine properties that were less than 20,001 sf and twenty properties between 20,001 and 50,000 sf. The Complainant excluded one comparable because it had a poorer location than the subject and was used as an office. Based on this grouping of the data, the Complainant calculated an average rental rate of \$21.50/sf and median of \$18.50/sf for properties less than 20,001 sf, and an average rental rate of \$16.64/sf and median of \$16.00/sf for those properties between 20,001 and 50,000 sf.

Board's Findings

The only issue raised was the rental rate applied in the income approach for the area categorized as Junior Big Box to calculate the assessed value of the subject property. Equity was not an issue and no evidence was presented on this issue.

The Board did not hear any evidence to indicate that the rental situation for Junior Big Box stores in the subject area was in any way different from the situation in any other parts of the City. Therefore, there was no reason to just consider comparables from the subject area. Furthermore, the Complainant relied on comparables from across the City in some of its analysis.

The Board did not find the listing information relevant and placed no weight on this evidence. The recent leases presented were considered as part of the entire body of comparables presented. However, little weight was given to the one lease presented that was indicated as a sub-lease in the contract document.

With regard to the size issue, the Board notes that the lease comparables presented by the Respondent for the size range of 14,000 to 50,000 sf support their conclusion of a rental rate for Junior Big Box stores of \$17.00/sf. The Board also notes the Respondent's calculation using recent (since March 2008) comparable leases presented by the Complainant for the 20,000 to 50,000 sf property size indicates a mean of \$17.30/sf and median of \$17.00/sf.

Based on the evidence presented and for the reasons stated, the Board finds no reason to vary the assessment.

Board's Decision:

The assessment is confirmed at \$8,420,000.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF JULY 2011.



Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal

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.*