

**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:

***J & B Holdings Inc.*
(as represented by *Altus Group Limited*), **COMPLAINANT****

and

The City of Calgary*, **RESPONDENT*

before:

***J. Dawson, PRESIDING OFFICER*
M. Grace, MEMBER
*J. Pratt, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	200160752
LOCATION ADDRESS:	7300 Railway Street SE
LEGAL DESCRIPTION:	Plan 0010165; Block 6; Lot 3
HEARING NUMBER:	68468
ASSESSMENT:	\$ 5,440,000

[1] This complaint was heard on the 16 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 3, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 8.

[2] Appeared on behalf of the Complainant:

- K. Fong Agent, Altus Group Limited

[3] Appeared on behalf of the Respondent:

- R. Farkas Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

Preliminary Issue 1 - Evidence

[4] The Complainant and the Respondent requested to bring forward all evidence, comments, questions, and answers articulated during a previous hearing, and heard before this Board to this hearing: CARB 1971/2012-P.

[5] **The Board determined, from the decision of CARB 1971/2012-P, that all evidence, comments, questions, and answers, is to be brought forward and incorporated just as if it were presented during this hearing.**

[6] No additional procedural or jurisdictional matters were raised.

SECTION B: Issues of Merit

Property Description:

[7] Constructed in 2002, the subject – 7300 Railway Street SE, is a single-storey retail building located along Railway Street and north of Heritage Drive in a community known as East Fairview Industrial.

[8] The Respondent prepared the assessment showing 24,614 square feet of retail space graded as a 'B' quality. The site has an area of 128,741 square feet.

Matters and Issues:

[9] The Complainant identified two matters on the complaint form:

- Matter #3 - an assessment amount*
- Matter #4 - an assessment class*

[10] Following the hearing, the Board met and discerned that this is the relevant question that needed to be answered within this decision:

1. *Is the subject correctly stratified as a big box store, and is the assessed rental rate correct?*

Complainant's Requested Value:

- \$3,830,000 on complaint form
- \$4,790,000 in disclosure document and confirmed at hearing as the request

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

Matter #3 - an assessment amount

Question 1 *Is the subject correctly stratified as a big box store, and is the assessed rental rate correct?*

Complainant's position

- [11] The Complainant argued that the assessed rate of \$17 per square foot is too high and should be \$15.
- [12] The Complainant reviewed the details of the subject, including; 2012 Property Assessment Notice, Property Assessment Public Record, Non-Residential Properties – Income Approach Valuation, maps, and photos. (C1 pp. 84-92)
- [13] The Complainant presented a report entitled; '2012 City of Calgary Lease Comparables Big Box 14,000 – 40,000 Square Feet'. The six leases ranged from November 2009 through August 2011 with a median and mean size very close to the subject. The report conclusion is a median of \$15.07 per square foot with a mean of \$14.90 per square foot. (C1 p. 94)
- [14] The Complainant submitted a document entitled; '2012 Property Assessment – Assessment Range of Key Factors, Components and Variables – 2012 Retail'. That document speaks to the four key factors, listing location as the number one item and showing freestanding properties separate and distinctive from shopping centres – five types; regional, power, community, neighbourhood, and strip. The other key factors are; space type, space area, and quality grading (class). (C1 pp. 99)
- [15] The Complainant argued that the subject is a freestanding retail location and not a big box store found in power centres, strip centres and neighbourhood centres.

Respondent's position

- [16] The Respondent asserted that the assessed rate of \$17 per square foot is correct and equitable. (R1 p. 2)

- [17] The Respondent reviewed the subject details; maps, photos, and Non-Residential Properties – Income Approach Valuation. (R1 pp. 4-11)
- [18] The Respondent presented their report entitled; '2012 Business Equity Comparables 14,001 – 40,000 square feet'. The one-hundred-and-one comparables ranged in size from 14,058 square feet to 39,047 square feet with no median and mean reported. All one-hundred-and-one comparables are assessed at \$17 per square foot. (R1 pp. 11-13)
- [19] The Respondent provided a document entitled; '2012 Lease Comparables – Big Box 14,000 – 40,000 square feet, A & B Classes'. The document was provided to illustrate that another furniture store in the same area has a lease for the assessed rate of \$17. (R1 p. 15)
- [20] The Respondent presented a report entitled; 'Complainant Lease Comparables'. The six leases had the same information provided by the Complainant except this report included the quality grading that ranged from a 'B' to an A2'. The report did not have a conclusion; however, it was intended to show that the Complainant was not comparing similar quality graded properties. (R1 p. 16)
- [21] The Respondent provided a previous Board decision; *CARB 2214/2011-P*, on the subject to demonstrate that in 2011 the Board confirmed the assessment. (R1 pp. 17-20)
- [22] The Respondent concluded with a statement that the assessment of the subject is correct, fair and equitable as a big box store, and the leases support the assessment. (R1 p. 36)

Board's findings

- [23] The Board found the one-hundred-and-one comparables to be somewhat problematic in defence of the assessment. There is no mean or median for the Board to ascertain if the sizes demonstrated are comparable to the subject. In addition there seems to be no analysis or regard provided to location. The determinate factor is size and use. If a retail property is between 14,000 and 40,000 square feet in Calgary it is assessed the same \$17 rate regardless if it is located at the busiest power centre in the city or buried deep into an industrial park. Common sense would dictate that these scenarios are not equal; however, the Respondent's assessment finds that they are.
- [24] The Board finds the subject to be a freestanding retail location within an industrial park – not a big box store located within a power centre. The Respondent failed to demonstrate how the subject is comparable to the typical big box store within the report.
- [25] The Board finds from the lease comparables presented, the six from the Complainant are good comparables to the subject. Analysing the three leases of freestanding retail locations during the valuation period only; the mean is \$14.09 per square foot and the median is \$13.25 per square foot, supporting the request from the Complainant of \$15 per square foot.

Matter #4 - an assessment class

- [26] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

Board's Decision:

[27]

After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a value of \$4,790,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF December 2012.


J. Dawson

Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure – 120 pages
2. R1	Respondent Disclosure – 36 pages

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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Freestanding	Income Approach	Market Rent