

**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:

1081016 Alberta Ltd. (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***K. D. Kelly, PRESIDING OFFICER
A. Wong, MEMBER
B. Jerchel, MEMBER***

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:	113012405
LOCATION ADDRESS:	6999 – 11 ST SE
HEARING NUMBER:	64472
ASSESSMENT:	\$13,000,000

This complaint was heard on 23rd day of August, 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:

- *Mr. K. Fong - Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. J. Ehler - Assessor, City of Calgary*
- *Mr. R. Ford - Assessor, City of Calgary*

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

None

Property Description:

The subject (Irene Besse/Sport Swap/Bondars) is classified by the City as being a "Junior Big Box" retail warehouse complex on 4.52 Acres (Ac) of land in East Fairview Industrial area. The site is south of Glenmore Trail and west of Deerfoot trail. The site is zoned Commercial – Corridor 3 and contains 2,800 square feet (SF) of "B" quality retail space constructed in 1998. It also contains 55,070 SF of "B" quality retail space constructed in 1992. The subject is assessed using the Income Approach to Value at \$13,000,000.

Issue:

The rent rates used to assess the subject are inequitable when compared to similar properties and therefore the assessment is incorrect and inequitable.

Complainant's Requested Value: \$10,300,000

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

Issue #1

"The rent rates used to assess the subject are inequitable when compared to similar properties and therefore the assessment is incorrect and inequitable."

The Complainant provided his Brief C-1 and argued that the subject is inequitably assessed when rent rates for similar properties in the general area of the subject and elsewhere are reviewed. He provided the City's original assessment "Income Approach to Value" calculation on pages 14 and 15 of C-1 and identified the various inputs. He argued that the assessed rate for "Junior Big Box" spaces of 14,001 to 50,000 SF should be \$12 and not \$17 per SF. He also argued that the assessed rate for CRU spaces of 6,001 to 14,000 SF should be \$17 not \$19 per SF. He asserted that these were the only two inputs to the City's Income Approach calculations being challenged in this appeal.

On pages 26 to 29 of C-1 the Complainant provided details of an assessment complaint for Barbeques Galore at 3505 Edmonton Trail NE which he considered comparable to the subject. On page 29 he provided a matrix and examination of eight lease comparables produced for the Barbeques Galore property assessment appeal, noting a median lease value of \$13.25 per SF. In addition, he noted that three of the lease comparables were from properties at 7275–11 ST SE—adjacent to the subject. He considered that these three were his “best” comparables upon which he was primarily relying for this appeal.

The Complainant noted that of the three spaces, one was for a 20,572 SF retail warehouse with a 5-year lease commencing Feb. 1 2010 for \$10.50 per SF. He considered this his “best” comparable. The second lease was for a 15,726 SF retail warehouse with a 5-year lease commencing July 1, 2008 for \$13.50 per SF. The third lease was for a 14,560 SF free-standing space with a 5-year lease commencing Jan. 1, 2008 for \$14 per SF. The spaces were said to be occupied by businesses Lee Valley, General Paint, and CDL Flooring. The remaining 5 comparable spaces were from various parts of the City and ranged from 14,500 to 37,920 SF. Their lease rates ranged from \$12 to \$14 per SF in leases starting from 2007 to 2010.

The Complainant argued that this lease data confirms that the subject “Junior Big Box” space assessed at \$17 per SF should be \$12 per SF. The Complainant provided and explored the applicable City “Assessment Summary Reports” for each of his comparable properties, noting in particular such features as building “Quality” ratings; year(s) of construction; and assessable land area. He also verbally provided certain assessment and lease data attributed to each property. He also provided aerial and schematic maps of properties, and exterior photos of each of them.

On page 34 of C-1 the Complainant provided a matrix of 13 assessment equity comparables which had also been used for the Barbeques Galore appeal. These comparables were from three of the four city quadrants and eight different market zones with assessable spaces ranging from 14,500 to 37,920 SF. The matrix contained the 8 properties from the lease matrix on page 29 of C-1 as well as 6 new ones. The matrix identified that all 13 properties had been assessed using an Income Approach lease value of \$12 per SF. The Complainant provided exterior photos and City Assessment Summary Reports for each equity comparable in an effort to demonstrate their comparability to the subject.

On page 54 of C-1 the Complainant provided a copy of the City’s “Lease Comparables for Jr. Big Box 14,0001 to 50,000 SF” and proceeded to suggest that a small number of properties he identified in the list, were not, in his opinion, “Junior Big Box” properties and hence were not comparable to the subject. He concluded from analysis that the City’s comparables are unreliable and his evidence demonstrates that the “Junior Big Box” space should be assessed at \$12 per SF and not \$17 per SF.

On page 84 of C-1 the Complainant provided a matrix of 13 “Community and Neighbourhood CRU 6,001–14,000 SF” leases for sites he considered comparable to the subject and which demonstrated an average value of \$17.12 per SF and a median value of \$17 per SF. He argued that this data indicates that the 21,850 SF of CRU space in the subject is over-assessed at \$19 per SF.

The Complainant argued that based on his evidence, the 33,220 SF of “Junior Big Box” space and the 21,850 SF of CRU space in the subject should be assessed at \$12 and \$17 respectively—all of which would reduce the assessment to \$10,300,000.

The Respondent questioned the Complainant as to whether or not all of his comparables had the same level of interior finish. It was unclear from the Complainant as to whether or not this was so and whether or not the comparables were in fact comparable to the subject as had been suggested. The Respondent clarified that "Junior Big Box" stores are retail properties ranging from 14,001 to 50,000 SF in size. He noted that those classified by the City as "A" and "B" based on lease rates, have all been equitably- assessed at \$17 per SF, whereas those classified as "C" and "D" were assessed at \$12 per SF.

The Respondent argued that the Complainant is mis-classifying the subject and has improperly used lease comparables from lesser classes of property to attempt to demonstrate an inequity. He referenced his Brief R-1 and noted that a similar approach with largely the same evidence as before the Board today was presented to a number of similar appeals attended by the Complainant or his firm in 2011. The Respondent noted that the \$17 per SF rate for Junior Big Box space was confirmed and the appeals had been rejected by the respective Boards hearing them. The Respondent referenced each of six Calgary Assessment Review Board Decisions CARB 1300/2011-P; CARB 0780/2011-P; CARB 0989/2011-P; CARB 1090/2011-P; CARB 1094/2011-P; and CARB 1119/2011-P and directed the Board to relevant pages in the Decisions where the \$17 per SF rate was confirmed.

The Respondent referenced pages 22 and 23 of R-1 containing a matrix sample of 62 equity comparables for Junior Big Box properties—all assessed using a lease rate of \$17 per SF. He argued that based upon critical analysis of data gathered in the "market" by the City, current leases demonstrate that \$17 per SF is typical for properties of this nature. Therefore the City has used this market data in its assessment calculations for the subject and comparable properties.

On page 24 of R-1 the Respondent provided a matrix of 30 lease comparables for Junior Big Box properties in the city. He noted that the mean lease value was \$18.11 per SF whereas the median value was \$17.05 per SF. He argued that this data confirms that \$17 per SF is appropriate for assessing Junior Big Box properties.

On page 69 of R-1 the Respondent provided a further matrix of 6 equity comparables for CRU spaces 6,001 to 14,000 SF in area. He noted that all had been equitably assessed using \$19 per SF like the subject.

On pages 38 and 39 of R-1 the Respondent offered a detailed critique of the Complainant's thirteen lease comparables from page 84 of C-1. The Respondent argued that the most of the Complainant's leases are old and/or incorrect. He proceeded on page 39 of C-1 to clarify and correct this information by systematically removing eight leases he considered to be inappropriate. Ultimately he considered that the Complainant's remaining 4 leases demonstrated a median value of \$22.50 per SF and an average value of \$24 per SF—all of which supported the \$19 per SF used to assess the subject and other comparable properties.

The Respondent also supplied a selected sample of several of the City's "Assessment Request For Information" (ARFI) documents, some of which he indicated supported the \$19 per SF value used by the City, and others which demonstrated the lesser lease values and different property types proposed by the Complainant. The Respondent argued that this market data supports the inputs used in the City's assessment calculations.

The Respondent requested that the assessment be confirmed at \$13,000,000.

Board's Analysis and Conclusions - Reasons

The Board considers from its review of the evidence that the following is significant in this hearing:

Firstly, the Respondent has demonstrated to the satisfaction of the Board that nine of the Complainant's 13 lease comparables for CRU space are not comparable to the subject. The Respondent was able to support his position with ARFI and Tenant Roll documents from the critiqued properties. Moreover, the remaining four valid lease comparables, with a median value of \$22.50 per SF, appear to firmly support the assessed value of \$19 per SF. Therefore, the Complainant's own data, when corrected, appears to support the assessment.

Secondly, the Board accepts that the Respondent's six equity comparables on page 69 of R-1 appear to also support the \$19 per SF for CRU spaces 6,001–14,000 SF.

Thirdly, while the Board accepts the City's clarification that "Classification of retail properties is based on rents", the Complainant appears to have misinterpreted the City's classification system for Junior Big Box retail sites as compared to other types of retail properties. Therefore his 14 equity comparables on page 34 of C-1 do not appear to be comparable to the Junior Big Box property in this appeal because they appear to predominantly represent other classifications of retail properties. The Complainant's reference to 7275–11 ST SE as being comparable to the subject is an example. Hence the results of the Complainant's analysis of this data appears to be unreliable.

Fourthly, the City has confirmed to the Board's satisfaction, that its 62 equity comparables on pages 22 and 23 of R-1, are representative of the \$17 per SF equitably applied to all similar Junior Big Box spaces in various parts of the city—including several properties nearby to the subject.

Finally, the Board has been made aware by the Respondent that several other Assessment Appeal Boards have confirmed the \$19 and \$17 per SF values on essentially the same or similar evidence and arguments. The Respondent referenced each of six Calgary Assessment Review Board Decisions CARB 1300/2011-P; CARB 0780/2011-P; CARB 0989/2011-P; CARB 1090/2011-P; CARB 1094/2011-P; and CARB 1119/2011-P and directed the Board to relevant pages in the Decisions. Upon review, this Board acknowledges and concurs with those Decisions.

The Board is therefore satisfied that, on balance and based on the evidence presented in this hearing, the assessment is both correct and equitable.

Board's Decision:

The assessment is confirmed at \$13,000,000.

DATED AT THE CITY OF CALGARY THIS 8 DAY OF SEPTEMBER 2011.


K. D. Kelly
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C-1	Complainant Disclosure Brief
2. R-1	Respondent Disclosure Brief

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.*