

**CITY OF LETHBRIDGE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0003/2010

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Altus Group Ltd. - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Tom Hudson, Presiding Officer

Jason Hunt, ARB Member

Bill LeLievre, ARB Member

A hearing was held on Thursday, July 29, 2010 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessment of the following property tax roll number:

Roll No./ Property Identifier	Assessed Value	Owner
1-0-400-2025-0001 0111888;11;8	\$18,116,000	Lethbridge College Centre Ltd.

Appeared on behalf of the Complainant:

- Mark Cathro – Altus Group Ltd.

Appeared on behalf of the Respondent:

- V. Blazek
- L. Wehlage

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PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a retail shopping centre located at 2025 Mayor Magrath Drive in south Lethbridge, known as the "College Centre". The net rentable area of the centre is 89,113 square feet, located in two(2) main buildings, and four(4) free standing "pad" sites. The property is assessed using the capitalized income approach to value. The focus of the complaint is on the rental rate applied to each of the "pad" sites. There is no dispute between the parties over any of the other rental rates or adjustment factors applied by the Respondent in the assessment calculation. Based on the revised rental rates for the "pad" sites submitted by the Complainant, the requested assessment for the subject is a reduction to \$16,510,000.

PART B: 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.

PART C: 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:

- Issue 1: The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
- Issue 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
- Issue 3: The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts
- Issue 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
- Issue 5: The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties

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- Issue 6: The assessment of the subject property is in excess of its market value for assessment purposes
- Issue 7: The assessed rental rate applied to the CRU Pad Sites within the subject property should be \$24
- Issue 8: The assessment of the subject CRU Pad Sites are inconsistent with the approach taken by the assessor on other areas throughout the subject site, thus have been treated unfairly and inequitably

However, as of the date of this hearing, only the following issues remained in dispute: Issues 1, 3 and 5.

ISSUE 1:

The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.

The Complainant alleges that the Respondent prepared the assessment using actual rental rates for all of the tenants on the subject property with the exception of the "pad" site tenants, where typical market rates were applied. The Respondent advised that all of the rental rates applied in the assessment reflect typical market rental rates, and that only the "pad" sites rates required adjustment from actual to typical values. The example noted by the Respondent of the most significant adjustment was for the "pad" site on the subject property occupied by the Boston Pizza restaurant. The actual rental rate reported was \$10.85 per square foot, while the typical market rate is \$27.00 per square foot. The Respondent submitted evidence in support of the current typical market rental rates for "pad" sites which illustrates an average of \$30.79 for bank sites and \$27.55 for restaurants in the Lethbridge market. The market rates applied to the four(4) pad sites on the subject property in preparing the assessment reflect these market rates. The Complainant submitted no evidence with respect to market rental rates for any of the tenants on the subject property.

Board Finding on Issue 1:

The subject property is assessed in accord with Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.

Reasons:

The Complainant submitted no market evidence to demonstrate that the actual rental rates used by the Respondent for all of the tenants with the exception of the "pad" site tenants do not reflect market value. The Respondent submitted compelling evidence

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that the adjustments made to the "pad" site rental rates are justified in order to prepare a full fee simple estimate of value for the assessment of the subject property.

Issue 3 and 5:

The assessed value should be reduced to the lower of market value or equitable value based on the numerous decisions of Canadian Courts. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.

The Complainant introduced the assessment of the Centre Village Mall located in north Lethbridge as an equity comparable property to the subject, in an effort to demonstrate that the Respondent had used a mixture of actual and typical rental rates in preparing the assessment, which leads to inequity. The Respondent indicated that the Centre Village Mall is not a good comparable to the subject. Firstly, it is an older style enclosed mall, and much larger than the subject, with tenants leasing some 289,201 square feet on the property. However, because there is a bank and fast food restaurant located on "pad" sites, similar to the subject; it was noted that typical market rates were applied in both of the assessments before the Board.

Board Finding on Issues 3 and 5:

The Board finds that there is no evidence to support a reduction in the assessment based on equity.

PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows.

Roll No./Property identifier	Value as set by the CARB	Owner
1-0-400-2025-0001 0111888;11;8	\$18,116,000	Lethbridge College Centre Ltd.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 20th day of August, 2010.



Presiding Officer

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APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO. ITEM

1. Exhibit A1 – Altus Group Ltd. Submissions
2. Exhibit B2 – City of Lethbridge Submissions

APPENDIX 'B'

PERSON APPEARING CAPACITY

1. Verle Blazek – City of Lethbridge
2. Lance Wehlage – City of Lethbridge
3. Mark Cathro – Altus Group Ltd.

