

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

ALTUS GROUP LTD., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Earl K Williams, PRESIDING OFFICER

Ian Fraser, MEMBER

Peter Charuk, 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 2010 Assessment Roll as follows:

ROLL NUMBER: 129181103

LOCATION ADDRESS: 10505 Southport Rd SW

HEARING NUMBER: 59213

ASSESSMENT: \$19,960,000

This complaint was heard on 6th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *A. Izard, Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *B. Duban, Assessor, the City of Calgary*

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

No procedural or jurisdictional matters were raised

Preliminary Matter:

Mezzanine Rental Rate Agreement

The Respondent and Complainant advised that the parties have reached agreement on the mezzanine rental rate. The Complainant had identified as an issue that the assessed rental rate for the mezzanine area of 7,752 sq ft be reduced from \$8.00 psf to \$1.00 psf. The Respondent has agreed to the \$1.00 psf for the mezzanine area of 7,752 sq ft. The revised assessment is **\$19,320,000.**

Property Description:

The property is a 169,758 square foot (sq ft) Real Canadian Superstore (Classified as a CM0206 Retail/Store – Big Box Store) on a 10.66 acre site located in the Community of Southwood. There is one freestanding unit on the property which operates as a liquor store.

Issues:

Anchor Rental Rate - the assessed rental rate for the retail anchor area of 155,015 sq ft be reduced \$10.00 per square foot (psf) to \$8.00 psf.

Complainant's Requested Value:

\$15,530,000

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

Complainant and Respondent presented a wide range of relevant and less relevant evidence in respect of the issues.

Rental Rate

Complainant

The Complainant presented on page 26 of the evidence package a table titled Retail Anchor Tenant Rental Analysis for rentable areas greater than 100,000 square feet. The analysis of the assessed rental rates for the 10 big boxes reported a weighted average rental rate of \$8.62 psf

and a median rental rate of \$9.00 psf. The most recent lease start date of the 10 comparables was March 2008 with a rate of \$10.00 psf.

In support of the requested assessed rental rate the Complainant presented a number of Board Orders from the Municipal Government Board ("MGB") and Assessment Review Board ("ARB") which established the 2009 Assessment net market rental rate at \$8.00 psf for Real Canadian Superstore properties as well as a number of other big box retailers.

Respondent

The Respondent presented as evidence, in support of the net market rental rate of \$10.00, a number of 2010 ARB Board Orders in respect of business assessment as well lease and equity comparables.

The lease comparables (page 21 of the evidence package) reported lease particulars for 5 retailers. As one of the comparables was *post facto* the Board considered 4 of the comparables. An analysis of the presented data determined that the average area was 100,464 sq ft and the weighted average rent was \$13.16 psf. The most recent lease start date of the 4 comparables was March 2008 with a rate of \$14.50 psf.

The equity comparables (page 22 of the evidence package) provided the area and the Sub-Property Use Code for 38 retailers which were assigned an assessment rental rate of \$10.00 psf. The subject property has an area of 155,015 sq ft, is a use code CM0206 and was assigned a rental rate of \$10.00 psf. An analysis of the size of the 38 determined that the area ranged from 74,555 to 207,987 sq ft. If the 207,987 sq ft property which is 46,522 sq ft larger than the next largest is excluded the area ranged from 74,555 to 169,339 sq ft. An analysis by use code of the 38 comparables determined that 12 were CM0206 Big Box Store which is the same use code as the subject and the size of the 12 ranged from 78,889 to 169,339 sq ft. An analysis of the 10 Superstores determined that they ranged in area from 115,675 to 169,339 sq ft and 4 were use code CM0206.

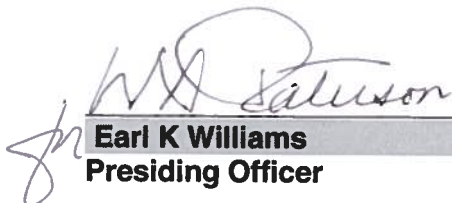
Board's Decision

The CARB reviewed the evidence presented by the Complainant and the Respondent with particular attention to the lease and equity comparables. Based on the evidence the CARB confirmed the rental rate at \$10.00 psf.

Board's Decision:

Revised assessment is \$19,320,000.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF September 2010.


Earl K Williams
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.*