

**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-26.1, Section 460(4).

between:

Altus Group Ltd, *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

J. Noonan, *PRESIDING OFFICER*

J. O'Hearn, *MEMBER*

B. Jerchel, *MEMBER*

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	037159902
LOCATION ADDRESS:	4122 Brentwood Rd. NW
HEARING NUMBER:	57677
ASSESSMENT:	\$11,660,000

This complaint was heard on the 10th day of June, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- K. Fong, *Agent*, A. Izard, *Senior Consultant*, Altus Group

Appeared on behalf of the Respondent:

- D. Zhao, *Assessor*, *The City of Calgary*

Property Description:

The subject is located at 4122 Brentwood Rd. NW, Calgary. It is a neighbourhood shopping centre dating to 1966. The assessed value is \$11,660,000.

Issues:

1. Should the attached bank space have its lease rate reduced from \$28 to \$25?
2. Should the vacancy allowances for grocery anchor and CRU space be increased from 1% and 2% to 4% and 11%?
3. Should the lease rates for CRU spaces be reduced from \$26 and \$24 to \$21 and \$17.50?

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

Issue 1: Bank rate

The Complainant urged that the bank lease rate be lowered to \$25 from \$28 in recognition of an older, attached structure. The Complainant's eighteen bank lease comparables produced a median of \$25 from a range of \$19.50 to \$33.50. The Respondent presented a list of ten NW equity comparables, all assessed at the \$28 rate, and the City's list of 2007 and newer bank leases from all quadrants showing a range of \$21 to \$58, median \$28.58.

The CARB found equitable the Respondent's use of a \$28 rate for all neighbourhood shopping centre banks in the NW quadrant. The Respondent had pointed out that a number of the Complainant's leases dated to 2005-2006, and the Board found ten of eighteen were from that time frame. The City's lease information was more current, and accordingly, the Board declined the requested reduction.

Issue 2: Vacancy Allowance

The Complainant urged the CARB to view the vacancy allowance not in the isolation of a single year, but rather from the perspective of a long term investor who would anticipate vacancy over a much longer time frame. Over 10 years, the City's 1% anchor space allowance would anticipate vacancy of only 5 or 6 weeks, an unrealistically low number. Rather, a 4% allowance

ought to be applied, in line with the allowance granted to numerous examples of big box free-standing stores, many of which functioned in concert with other developments in a manner similar to a neighbourhood shopping centre. For CRU space an allowance of 11% was advanced, supported by a full page vacancy study of similar developments but excluding anchor spaces. This study had been compiled by Altus over the previous year from rent roll information supplied by their clients, and produced a weighted average of 10.5% vacancy for CRU space. While a 5-6% vacancy might be expected over the longer term, if one averaged this 11% requested allowance with the previous 2 years allowances, a conservative number was still achieved.

The Respondent noted that in the Calgary market, shopping centre anchor grocery space was frequently owner-occupied, but where leases were in place their terms were for 20 years or more, and thus a 1% vacancy allowance for this type of space was justified. Big box stores are a different class of property. With regard to CRU vacancy, the City annually collects ARFIs which are returned from property owners over a short time period, and thus give a true snapshot of vacancy as opposed to all the vacancies that occurred over the year, no matter their duration. As well, the City found errors in the Complainant's study, such as vacancy that only occurred in 2010 – thus having no bearing on July 1, 2009 typicals – or instances where vacancy was owner-initiated to accommodate construction/renovation.

The Respondent presented a cap rate study of four neighbourhood/community shopping centres, three sales in 2009 and one in 2008. Using City typicals for rent rates, vacancy, operating shortfalls, etc. from those respective years, a median cap rate of 7¼% was calculated, as compared to an 8% cap rate used for July 1, 2009 assessed value. If one were to substitute the Complainant's vacancy allowances of 4% and 11% in this study, the median cap rate would drop to 6.39% or an implied 7% for assessment purposes.

The CARB found insufficient evidence from either party to justify a change to the 1% grocery anchor vacancy allowance. The Board also found the City's method of data collection superior to that advanced by the Complainant, giving a more reliable estimate of vacancy for CRU space, and so found insufficient reason to accept the requested 11% vacancy allowance for this space type.

The CARB was presented the March, 2010 ARFI for the subject which showed that vacancy at the subject is becoming substantial, but not the 2009 ARFI. It was not clear when vacancy started to rise above normal levels. It was also stated that the fast food restaurant was recently vacated, well in advance of lease expiry. The CARB heard that the subject area is included in an area redevelopment plan, and no doubt tenants have concluded that temporary relocation is an attractive option. Despite the current lack of a concrete construction schedule, or even permits, it is apparent that next year consideration of abnormal vacancy would be appropriate. The same cannot be said for the current assessment.

Issue 3: CRU lease rates

The parties presented their selection of comparable lease rates from the NW quadrant. For the 1001-2500 sq.ft. category, the CARB found the most relevant recent leases from a nearby property at 3750 Brentwood signed in Sept '07, Jan '08, Feb '08 and Nov'09. These averaged \$23.38 close to the \$24 rate levied. The Respondent's <1000 sq. ft. comparables averaged

\$27.50 while the Complainant's comparables would lead to the counter-intuitive conclusion that smaller space (<1000) should lease for less than larger. The CARB concluded that the subject CRU spaces were fairly assessed.

Board Decisions on the Issues:

The Board confirmed the assessment at \$11,660,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF June 2010.


for **J. Noonan**
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.*