

**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(4).

between:

Altus Group Ltd, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Don H Marchand, PRESIDING OFFICER

Peter Charuk, MEMBER

Allan Zindler, 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:	200388197
LOCATION ADDRESS:	99 CROWFOOT CR NW
LEGAL DESCRIPTION:	0313046; 5; 8
HEARING NUMBER:	59175
ASSESSMENT (2010):	\$2,200,000

This complaint was heard on 17TH day of June, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant; *Altus Group Ltd.*: B. Neeson & A. Izard

Appeared on behalf of the Respondent; *City of Calgary*: D. Zhao & T. Woo, S. Turner

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

- Prior to the hearing the jurisdictional matter filed by letter dated March 26, 2010 was withdrawn.

Description and Background of the Property under Complaint:

The subject parcel supports the HSBC bank within Crowfoot Centre in the NW Calgary. The bank has 5,549 square feet of main space assessed at \$30.00 per sq. ft. and 1,707 sq. ft. of storage space assessed at a rate of \$3.00 per sq. ft.

Upon review with the parties it is conceded that the roll number that identifies the property should be 200388189 and that roll number 200388197 identifies the Safeway store that was part of a Jurisdiction matter under File 59480.

The subject property for assessment purposes has been grouped under a "sub-property use" coded as CM1403 and is described as Shopping Centre – Power. A 2% vacancy allowance was applied to such space within the income approach analysis.

The Complainant advised that only 2 of the 13 points filed within the subject's Assessment Review Board Complaint form under *Section 5 – Reason(s) for Complaint* would be argued at the hearing:

"> The assessed vacancy allowance applied to the subject property should be increased to reflect the current vacancy at 7%*

"> The assessed retail rate applied to the subject property should be \$25 for bank space.

As to vacancy allowance issue 7% vs. 2%:

The complainant provided a *Power Centre CRU Vacancy Study*. Within the study 7 power centre were identified, each has their total lease area, their anchor space, their CRU space and Vacant Area Identified. The complainant's total Leasable Area for all 7 power centres amounts to 5,909,486 sq. ft. of space. The CRU space amounts to 2,653,061 sq. ft. of space. The Vacant space totals an amount to 183,902 sq. ft. thus; giving a weighted average of 6.93% - rounded to 7%. Within the Complainant's study the subject power centre yielded a vacancy of 6.9%

The Respondent provided their *Power Centre CRU Vacancy Study*. The Respondent's study reviewed the same 7 power centres. The Respondent used 2009 Assessment Request for Information (ARFI) data as the source for their study. The Respondent's total Leasable Area for all 7 power centres amounts to 7,175,351 sq. ft. of space. The CRU space amounts to 3,103,350 sq. ft. of space. The Vacant space totals an amount to 55,104 sq. ft. thus; giving a weighted average of 1.78% - rounded to 2%. The subject power centre indicated a 2.96% vacancy.

The Respondent also provided a third party market report confirming their findings.

Reasons for the decision as to vacancy allowance issue - 7% or 2%:

There is a significant amount of difference between the parties' studies.

The CARB weights the evidence established through the ARFI process. Annually a request is sent to property owners and managers for information regarding parking, leases, vacancy, tenancy, operating costs, etc. This is done under section 295 of the Municipal Government Act that has provisions for non-compliance.

As to market rental rate of the Bank Space - \$30.00 or 25.00 per sq. ft.:

The Complainant submitted several (18) property assessment detail sheets and business assessment notices identifying bank CRU space where the rate of \$28.00 per sq. ft. was used as the market rental rate. The Respondent points out that none of the Complainant's comparables are CRU space within a Power Centre.

The Respondent submitted a listing of some 19 comparable spaces in the range of 3,000 to 8,000 sq. ft. all with the assessed rate of \$30.00 per sq. ft. together with a listing of 15 bank lease rates in Power Centres. The median lease rate provided is a rate of 32.50 per sq. ft. Also provided was the subject's ARFI showing the lease amount signed in 1997 at 29.50 per sq. ft.

Decision as to market rental rate of the subject's Bank CRU Space

The CARB is satisfied the Respondent's rate of \$30.00 is supported within the market place for power centre lease space similar to the subject. None of the Complainant's comparables are from within the same market.

Overall Decision: The assessment is confirmed at \$2,200,000

DATED AT THE CITY OF CALGARY THIS 21st DAY OF July 2010.


D. Marchand
Presiding Officer

DM/kc

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.*