

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

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

BETWEEN:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

BEFORE:

J. Krysa, PRESIDING OFFICER

D. Julien, MEMBER

Y. Nesry, MEMBER

A hearing was convened on July 26, 2010 in Boardroom 2, at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	133001701
LOCATION ADDRESS:	11540 24 Street SE
HEARING NUMBER:	59376
ASSESSMENT:	\$3,830,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 77,072 square foot (sq.ft.) parcel of land, improved with 2 retail structures, 9,295 sq.ft and 4,246 sq.ft. in area, constructed in 1998, with paved surface parking. The property is adjacent to, and part of the Douglas Square neighbourhood shopping centre.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

There were no procedural or jurisdictional matters raised by the parties.

PART C: MATTERS / ISSUES

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter number 3, an assessment amount. The Complainant set out 11 reasons for complaint in Section 5 of the Complaint form, however at the hearing the Complainant stated only the following issues remained in dispute:

Issue 1: The rate applied to the CRU (commercial retail unit) space is inconsistent with the rate applied to other properties in the market area.

Issue 2: The vacancy rate does not reflect the market conditions as of the valuation year and should be increased to 10% to reflect market value.

The Complainant requested an assessment of \$3,390,000.

Issue 1: The rate applied to the CRU (commercial retail unit) space is inconsistent with the rate applied to other properties in the market area.

To demonstrate that the assessment of the subject property is inequitably assessed in relation to other properties, the Complainant submitted the assessment calculations of several similar and competing properties that exhibited rent rate coefficients ranging from \$13.00 to \$24.00 per sq.ft., with maximum assessed "market rent" rates applied as follows: [C1 pgs 116 – 127]

CRU Size Range	Comparables - Maximum Rent Rate	Subject Property Rent Coefficient
1,001 to 2,500 sq.ft.	\$24.00 per sq.ft.	\$26.00 per sq.ft.
2,501 to 6,000 sq.ft.	\$23.00 per sq.ft.	\$25.00 per sq.ft.

The Respondent submitted three business assessment comparables for each of the above noted CRU size ranges to illustrate equity in relation to the subject property. [R1 pgs 31 and 33].

Decision - Issue 1

The Board finds that the subject's market rent coefficients of \$26.00 and \$25.00 per sq.ft. are not equitable with the coefficients applied to similar, competing properties. Market rent coefficients of \$24.00 and \$23.00 per sq.ft. are accepted by the Board as fair and equitable.

The Complainant's evidence indicates that typical market rent coefficients were not equitably applied amongst similar and competing properties in the same market area, or even within the same neighbourhood shopping centre development. The Board finds that there was no evidence to suggest that the subject property is superior to the Complainant's main comparable, 11566 24 Street SE, and should therefore command a higher market rent rate. The subject property is part of the same development, and shares the same parking lot and access as 11566 24 Street SE.

The Respondent's equity comparables were given little weight as only one of the three equity comparables in each size range supported the assessed rent rate, while two of the three equity comparables in each size range actually served to support the Complainant's position that the subject property was inequitably assessed.

Issue 2: The vacancy rate does not reflect the market conditions as of the valuation year and should be increased to 10% to reflect market value.

The Complainant submitted a vacancy study of community and neighbourhood shopping centres indicating that the average and median vacancy rate of CRU (commercial retail unit) space within these property types was 11.87% and 10.62% respectively [C1 pg 152].

The Respondent presented an analysis of the Complainant's study, with revisions based on data acquired from the Assessment Request For Information (ARFI) forms, and adjustments reflecting the exclusion of 2 specific properties that, it was argued, should not be considered typical of the current market [R1 pgs 17 – 21].

The Respondent and Complainant both submitted that the Assessment Review Board has, in recent cases not accepted the Complainant's study in light of the Respondent's analysis, and as a result the Complainant did not pursue the matter in argument.

Decision - Issue 2

The Board finds that there was insufficient conclusive evidence from the Complainant to disturb the assessment with respect to the vacancy allowance.

PART D: FINAL DECISION

The assessment is revised from \$3,830,000 to \$3,670,000.

Dated at the City of Calgary in the Province of Alberta, this 27th day of August, 2010.



J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C1 Complainant's Brief
2.	Exhibit R1 Respondent's Brief

APPENDIX 'B'**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. A. Iazard	Representative of the Complainant
2. M. Byrne	Representative of the Respondent

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.*