

**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 Ltd., COMPLAINANT**

**and**

**The City Of Calgary, RESPONDENT**

**BEFORE:**

**J. Krysa, *PRESIDING OFFICER***

**D. Julien, *MEMBER***

**Y. Nesry, *MEMBER***

A hearing was convened on July 27, 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:

<b>ROLL NUMBER:</b>	<b>071104202</b>
<b>LOCATION ADDRESS:</b>	<b>3210 17 Avenue SE</b>
<b>HEARING NUMBER:</b>	<b>57539</b>
<b>ASSESSMENT:</b>	<b>\$1,350,000</b>

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is a 19,376 square foot (sq.ft.) parcel of land improved with a 3,912 sq.ft. free-standing restaurant, constructed in 1970. The property, operated as Phil's Restaurant forms part of the Forest Lawn 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 5 reasons for complaint in Section 5 of the Complaint form, however at the hearing the Complainant stated only the following issue remained in dispute:

**Issue:** The rental rate of \$30.00 per sq.ft. is neither fair nor equitable – a rental rate of \$26.00 per sq.ft. should be applied to the 2010 property assessment.

The Complainant requested an assessment of \$1,170,000. [C1 pg 3]

**Issue:** The rental rate of \$30.00 per sq.ft. is neither fair nor equitable – a rental rate of \$26.00 per sq.ft. should be applied to the 2010 property assessment.

The Complainant submitted an analysis of five restaurant leases that exhibited average and median lease rates of \$16.13 and \$15.50 per sq.ft. respectively [C1 pg 26].

Also provided were 11 property assessment comparables and 2 business assessment comparables, assessed at market rent rates ranging from \$24.00 to \$28.00 per sq.ft., to demonstrate that the subject, with a \$30.00 per sq.ft. market rent coefficient was assessed inequitably [C1 pgs 32 to 58].

Further, as a result of a recent Assessment Review Board decision in respect of the 2010 business assessment, the Complainant revised his requested assessment from \$1,170,000 to \$980,000, reflecting a reduction in the business assessment net annual rental value to \$22.00 per sq.ft.

The Respondent acknowledged that the Complainant's comparables demonstrated an inequity, and recommended a reduction to \$1,170,000, the value originally sought by the Complainant.

**Decision - Issue 1**

The Board finds that an assessment based on a market rent coefficient of \$26.00 is fair and equitable with other similar and competing properties.


The Complainant's rent rate analysis of 5 restaurant leases was found to be of no value to the Board in establishing a typical market lease rate as of the valuation date of July 01, 2009, as the leases in the analysis were significantly dated, with the two oldest leases commencing in the years 2000 and 2005.

With respect to the matter of assessment equity, the Board finds that an assessment reflective of a \$26.00 per sq.ft. market rent coefficient would be equitable in relation to the Complainant's comparables. The Board notes that none of the Complainant's comparables are assessed with a market rent coefficient of \$22.00, and a reduction to the Complainant's revised request would create an inequity.

**PART D: FINAL DECISION**

The assessment is revised from \$1,350,000 to \$1,170,000.

Dated at the City of Calgary in the Province of Alberta, this 3 day of September, 2010.

  
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J. Krysa  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1.	Exhibit C1
2.	Exhibit R1
	Complainant's Brief
	Respondent's Brief

**APPENDIX 'B'****ORAL REPRESENTATIONS**

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1.	A. Izard
2.	B. Duban
	Representative of the Complainant
	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.*