

**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 30, 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:	111138897
LOCATION ADDRESS:	7724 Elbow Drive SW
HEARING NUMBER:	59493
ASSESSMENT:	\$12,080,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 98,601 square foot (sq.ft.) parcel of land, improved with a 45,443 sq.ft. neighbourhood shopping centre with paved surface parking, and known as Kingsland Plaza.

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 16 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 rental rates applied to the subject's retail and office are neither fair nor equitable.

Issue 2: The vacancy of 2% applied to the subject is neither fair nor equitable.

Issue 3: The assessed area does not match the subject's rent roll.

The Complainant indicated that there was no issue with the \$20.00 market rent coefficient applied to CRU (commercial retail unit) spaces greater than 6,000 sq.ft., nor the \$15.00 market rent coefficient applied to the "poorly located" CRU space within the subject property.

The Complainant requested an assessment of \$9,770,000.

Issue 1: The rental rates applied to the subject's retail and office are neither fair nor equitable

The Complainant submitted an analysis of the market rent coefficients assigned to various size ranges of CRU's at eleven south side shopping centres to demonstrate that the coefficients applied to the subject property are inequitable [C1 pg 35]. The details of the analysis are set out below:

CRU Size Range (sq.ft)	Average \$/sq.ft.	Median \$/sq.ft.	Subject \$/sq.ft.
0 - 1,000	22.38	22.00	25.00
1,000 - 2,500	21.91	22.00	24.00
2,501 - 6,000	20.50	21.00	23.00
> 6,000 (Not at issue)	20.00	20.00	20.00
Office space	16.67	18.00	20.00

The Respondent submitted four to five examples of recent leases for each of the CRU size ranges set out above, to demonstrate that the market rent coefficients of the subject represented typical market rents [R1 pgs 18-19]. The details are summarized below:

CRU Size Range (sq.ft)	Average \$/sq.ft.	Median \$/sq.ft.	Subject \$/sq.ft.
0 - 1,000	27.00	27.00	25.00
1,000 - 2,500	24.75	24.50	24.00
2,501 - 6,000	23.47	23.50	23.00
> 6,000 (Not at issue)	22.00	22.00	20.00
Office space	21.01	21.05	20.00

Decision – Issue 1

The market rent coefficients are not equitable with similar and competing properties.

Of the Complainant's comparable properties, only two, #1 and #6, were valued with similar coefficients (vacancy and capitalization rate) as the subject property, however both of those were assessed with market rent coefficients similar to the median rents indicated in the Complainant's analysis, and not at the levels applied to the subject property.

The Board finds the Respondent's recent leases are not comparable to the subject as they are generally located in newer districts. Further, the Board finds the lease evidence not compelling as the market rates evident for the CRU size ranges were not used to establish the assessments of any of the properties from which the lease examples were derived. With respect to the Respondent's office leases, the photographs of the properties presented by the Complainant persuaded the Board that the properties were not similar to the subject; a point conceded by the Respondent.

Issue 2: The vacancy of 2% applied to the subject is neither fair nor equitable.

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 98].

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 30-63].

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.

Issue 3: The assessed area does not match the subject's rent roll.

Both the Complainant and the Respondent submitted the rent rolls from the subject property indicating the total rentable area to be 45,630 sq.ft. [C1 pgs 32 – 33] and [R1 pgs 254 – 255].

The Complainant's requested assessment reflected a variance of space allocations from that of the current assessment [C1 pg 119]. The Respondent conceded the current assessment was based on inaccurate areas, and submitted a revised calculation with the Complainant's amended area allocations, indicating a minimal (upwards) change in assessment [R1 pg 15].

Decision – Issue 3

The Board accepts the amended area allocation of the parties, and will rely on the agreed upon areas in the calculation of the final decision as set out below.

Component	Assessed Area	Assessed Rate \$	Requested Area	Requested Rate \$	Decision (Area)	Decision (Rate \$)
CRU 0 - 1000	360	\$25.00	360	\$22.00	360	\$23.00
CRU 1001 - 2500	17,134	\$24.00	14,031	\$22.00	14,031	\$22.00
CRU 2501 - 6000	10,278	\$23.00	13,491	\$21.00	13,491	\$21.00
CRU 6001+	10,005	\$20.00	10,005	\$20.00	10,005	\$20.00
CRU Poor Location	6,601	\$20.00	6,716	\$18.00	6,716	\$18.00
Office Space	1,065	\$15.00	1,027	\$15.00	1,027	\$15.00
	<u>45,443</u>		<u>45,630</u>		<u>45,630</u>	

PART D: FINAL DECISION

The assessment is revised from \$12,080,000 to \$11,260,000.

Dated at the City of Calgary in the Province of Alberta, this 8 day of September, 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. K. Fong	Representative of the Complainant
2. E. Currie	Representative of the Respondent
3. D. Lidgren	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.*