

**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***

***A. Zindler, MEMBER***

***S. Rourke, MEMBER***

A hearing was convened on July 6, 2010 in Boardroom 8 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>081201295</b>
<b>LOCATION ADDRESS:</b>	<b>2140 34 Avenue SW</b>
<b>HEARING NUMBER:</b>	<b>59697</b>
<b>ASSESSMENT:</b>	<b>\$2,920,000</b>

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

The subject property is a 15,265 square foot (sq.ft.) parcel of land improved with a 8,525 sq.ft. single storey, multi-tenant retail building.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The Assessment Review Board derives its authority under Part 11 of the Act. At the commencement of the hearing, Mr. A. Zindler, Board Member, disclosed his acquaintance and relationship with the principles of the property. The parties indicated they had no objection to Mr. Zindler participating in the hearing and deciding of the complaint.

**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, the Complainant stated only the following issues, condensed from the reasons in Section 5 of the complaint form, were in dispute:

Issue 1: Market net rental rates applicable to individual tenant spaces

Issue 2: Equity: net rental rate applied to bank space

The Complainant submits that a correct, fair and equitable assessment value is \$ 2,670,000.

**Issue 1: Market net rental rates applicable to individual tenant spaces**

The Complainant submitted the subject property's rent roll indicating the following lease arrangements in place:

1,148 sq.ft CRU leased to Dr. B. Hall for 5 yrs (2006 to 2011) Rate: \$20, \$21, \$22, \$23, \$24

7,377 sq.ft Bank space leased to ATB Financial for 5 yrs (2006 to 2011) Rate: \$29

In support of the requested \$21 lease rate on the 1,148 sq.ft. area, the Complainant presented a city-wide list of medical area leases with 2007 to 2009 commencement dates, ranging in size from 105 sq.ft to 9,081 sq.ft. and exhibiting an average and median lease rate of approximately \$21.00 per sq.ft. With respect to the 7,377 sq.ft. (bank) area, the Complainant submitted market evidence of 3 bank space leases signed in 2007 to 2008 that exhibit a range of lease rates from \$25.00 to \$28.50 per sq.ft. with a median rate of \$26.00 per sq.ft. [C1 pg 21].

The Respondent presented 6 leases of free-standing commercial retail units (CRUs) from comparable SW and NW neighbourhoods, with 2006 to 2009 commencement dates exhibiting lease rates ranging from \$18.91 to \$31.00 per sq.ft. for total areas from 990 to 2,420 sq.ft., and a median rate of \$24.00 per sq.ft. [R1 pg 26]. The Respondent also submitted a list of 4 free-standing bank leases commencing between 2006 and 2009, and ranging from \$29 to \$55 per sq.ft., with a median rate of \$47.50 per sq.ft.

**Decision- Issue 1**

The Board finds that there was insufficient market evidence to disturb the assessment.

The Complainants market evidence of medical leases was of limited value to the Board, as the average / median was derived from various property types, in various locations throughout the municipality, and included dated leases that may not reflect current market value. Further, the evidence was limited to "medical" leases, and although the current tenant may conduct a medical related business in the 1,148 sq.ft. space, the area appears to be a typical CRU that may be occupied by any tenant. The Complainant's bank lease examples were all located in neighbourhood or community shopping centres outside of the SW quadrant where the subject property is located.

The Respondent's evidence was also of limited value to the Board in that of the 5 comparable CRU leases put forward, none were of leases commencing in the base year were within the SW quadrant. As to the Respondent's bank lease evidence, the Board was provided with 4 lease examples ranging from \$29 to \$55 per sq.ft. with a median of \$47.50; with no explanation of why most banks are assessed at \$28 to \$30 per sq.ft.

In conclusion, the onus is on the Complainant to convince the Board that an assessment is incorrect, and in this instance the Complainant has not met that onus.

**Issue 2: Equity: net rental rate applied to bank space**

The Complainant submitted a list of 25 bank assessments, indicating a range of net rental rates applied to bank assessments ranging from \$16.00 to \$28.00 per sq.ft. [C1 pg 22], as well as a number of additional property and business assessments of bank spaces at various net rental rates below \$28.00 per sq.ft. to indicate that the subject assessment at a \$30.00 net rental rate is inequitable with other property assessments [C1 pgs 23 to 52].

The Respondent did not submit a listing of bank equity comparables to support the \$30 net rent rate, but provided amended "bank space" Business Assessments for a range of property types; mostly amended to \$28 per sq.ft.

**Decision - Issue 2**

The Board finds that the subject property is inequitably assessed with other properties with respect to the CRU occupied by the bank, and the typical market rent applicable should be \$28.00 per sq.ft.

The vast majority of comparables occupied by bank tenants were assessed with a \$28.00 market rent rate. There was no evidence as to why the subject, which is neither a freestanding single tenant space, nor located in a prime location was assessed at a (\$30.00) rate higher than the comparables submitted.

**PART D: FINAL DECISION**

The assessment is revised from \$2,920,000 to \$2,750,000.

Dated at the City of Calgary in the Province of Alberta, this 12 day of August, 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 Complainant's Brief
2.	Exhibit R1 Respondent's Brief

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

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1. B. Neeson	Representative of the Complainant
2. E. Currie	Representative of the Respondent
3. M. Ryan	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.*