

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property/Business assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

ALTUS GROUP LTD., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Earl K Williams, PRESIDING OFFICER
Ian Fraser, MEMBER
Peter Charuk, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of Property/Business assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 104032396

LOCATION ADDRESS: 6449 Crowchild Trail SW

HEARING NUMBER: 59487

ASSESSMENT: \$14,930,000

This complaint was heard on 3rd day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- K Fong

Appeared on behalf of the Respondent:

- T Woo

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

No Preliminary, Procedural or Jurisdictional Matters

Property Description:

The property is a 63,946 square foot (sq ft) Shopping Centre (Classified as a CM0203 Retail Shopping Centre – Neighbourhood Shopping Centre) on a 5.53 acre site located in the Community of Lakeview. The subject property anchor is a Sobeys supermarket. There are no freestanding units on the property.

Issues:

Rental Rate Restaurants – the rental rate applied to the restaurant space should not be \$30.00 psf as they are not freestanding units but CRU space and should be assessed in the same manner as the CRU space

Rental Rate Bank – the rental rate should be reduced from \$28.00 psf to \$25.00 psf

Poor Location Area – the area be increased from 582 sq ft to 2,601sq ft

Vacancy Rate – the vacancy rate for assessment be increased as follows:

Major	from 1% to 4%
CRU	from 2% to 11%

Complainant's Requested Value:

\$12,560,000

Board's Decision in Respect of Each Matter or Issue:

Complainant and Respondent presented a wide range of relevant and less relevant evidence in respect of the issues.

Rental Rate Restaurants

The complainant's evidence for the subject property included photographs (pages 19-23), a schematic layout of the shopping centre that identified the location of each tenant (page 17) and the rent roll by unit (pages 28 -29). Specifically:

- schematic layout and photos show no free standing units on the property
- schematic layout and photos show the restaurant space occupied by the two restaurants, Dairy Queen and Bell Roma Pizza & Steakhouse, as CRU space within the 63,946 square feet (sq ft) of the Shopping Centre
- the tenant rent roll shows the Dairy Queen as suite 1000 leasing 2,400 sq ft and the Bell Roma Pizza & Steakhouse as suite 1017 leasing 3,456 sq ft

The Respondents' evidence included photographs (pages 6-20) which show no free standing

units on the property as well the photographs showed the two restaurants to be CRU's within the 63,946 square feet (sq ft) of the Shopping Centre.

Board Decision

Based on evidence presented, specifically the Complainant's and Respondent's photographs, the restaurants are:

- not freestanding units but CRU space within the 63,946 square feet (sq ft) of the Shopping Centre, and
- assessed the rental rate as CRU space and not as freestanding units

Rental Rate Bank

Complainant: The Rent Roll submitted as evidence (pages 28-29) by the Complainant reported the following particulars for the tenant, Bank of Nova Scotia: 4531 rentable sq ft at a base rent of \$23.00 psf. The evidence package (pages 32 and 33) presented tables containing lease information for CRU and Freestanding banks. Photos (pages 34 -54) of the properties listed in the table on page 33 supported their classification as either CRU or Freestanding. For the 19 comparables listed in the table titled "CRU Bank Rental Information" (on page 32) the following findings were reported:

- area leased: median 5.098 sq ft and the average was 4,888 sq ft
- rental rates: median \$25.00 psf and weighted average \$25.13

The table titled "Respondent's Lease Comparables" prepared by City of Calgary Assessment contained lease particulars for 11 CRU banks and 11 freestanding banks. Based on the lease particulars for the 22 comparables, regardless of whether the bank is CRU space or freestanding unit, the rental rate were reported as a median of \$28.58 psf and a weighted average of \$32.34 psf. For the 11 CRU banks the median rental rate was \$26.00 psf and the average was \$25.10 psf

Respondent: The Respondent presented on page 61 of their evidence a table titled "Respondent's Lease Comparables" prepared by the City of Calgary Assessment. This table contained lease particulars for 11 CRU banks and 11 freestanding banks. Based on the lease particulars for both the CRU and Freestanding banks the rental rates were reported as a median of \$28.58 psf and a weighted average of \$32.34 psf. The Respondent completed no further analysis of the information contained in the table.

Board Decisions

The Board reviewed the evidence presented with particular attention to the table titled "Respondent's Lease Comparables" prepared by City of Calgary Assessment which was presented by the Complainant and the Respondent. This table contained lease particulars for 11 CRU banks and 11 Freestanding banks. The Board's analysis of the data is presented in the following table:

Type of Space	Average Area Leased (sq ft)	Median Rental Rate (psf)	Weighted Average Rental Rate (psf)
CRU	4,387	\$26.00	\$25.26
Freestanding	5,353	\$33.50	\$38.64

The table titled "Respondent's Lease Comparables" reported the lease information on 3 CRU leases and 1 freestanding lease that commenced between January and July 2009. The Board's analysis of the 2009 leases is as follows:

- CRU leases (3 comparables): average area leased of 5,528 sq ft; a median rental rate of

\$26.00 and a weighted average rental rate of \$25.18 psf

- Freestanding (1 lease): area leased of 3,385 sq ft with a rental rate of \$46.00 psf

Based on the evidence presented the Bank is a CRU space and not a freestanding unit. Further the rental rate is reduced from \$28.00 psf to \$25.00 psf.

Poor Location Area

The Complainant evidence (page 17) identifies 5 CRU spaces totalling 2601 sq ft that are in an area of the Shopping Centre that is not visible from the parking lot or easily visible from the pedestrian walkway. Currently 3 of the 5 CRUs are leased and the signage for the property does identify the presence of the tenants in the Shopping Centre. Two (2) of the 5 CRU's are vacant and one of these two (2) is accessible only from the rear of the property. It was the complainant's position that the 5 CRU's warrant a classification of poor location.

The Respondent's Income Approach Valuation (page 23) identified 2 CRUs as poor location. The photograph on page 13 of the Respondent's evidence shows signage that identifies the three tenants located in the area where the 2 CRUs are located that are classified as poor location. The third tenant, who is not classified as poor location, is located directly across from the 2 CRUs which are classified as poor location.

Board Decision

The Board's analysis of the Complainant's and Respondents evidence determined that

- the 5 CRU's all are in the same area of the property,
- the 3 that are leased are identified on the signage for the property yet only 2 or 3 of the CRU's have been classified as poor location
- the 3rd CRU which is leased and not classified as poor location is directly across from the 2 CRUs which are classified as poor location
- one of the CRU's, not classified as poor location, is only accessible from the back of the property

Based on the evidence the Board decision is that the poor location area be increased from 582 sq ft to 2,601sq ft.

Vacancy Rate

Complainant presented a vacant space analysis (pages 55 -109) comprised of photographs and a Income Approach Valuation summary for 20 retail comparables located through the City of Calgary as support for their requested vacancy rates.

Respondent's presented on page 32 of their evidence a table of the anchor and CRU vacancy for properties classified as CM0203 Retail Shopping Centre – Neighbourhood Shopping Centre which is the same classification as the subject property. The presented evidence supported vacancy rates for Anchor – 1%, CRU space – 2%.

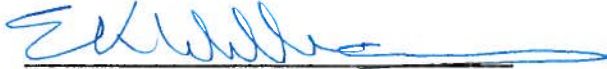
Board's Decision

Based on the evidence the Board confirmed the vacancy rates for Anchor – 1%, CRU space – 2%.

Board's Decision:

Assessment Revised to \$14,060,000

DATED AT THE CITY OF CALGARY THIS 2 DAY OF September 2010.



Earl K Williams
Presiding Officer

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.*