

**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 7, 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:

ROLL NUMBER:	201079290
LOCATION ADDRESS:	2805 32 Avenue NE
HEARING NUMBER:	59276
ASSESSMENT:	\$10,280,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 206,870 square foot (sq.ft.) parcel of land improved with 3, one-storey retail buildings consisting of a 40,441 sq.ft. multi-tenant structure, constructed in 2000 and demised into two Commercial Retail Units (CRU's) with 1,671 sq.ft. of mezzanine, and two freestanding restaurants constructed in 1984 and 1985, with a total main floor area of 11,107 sq.ft., plus 1,847 sq.ft. of basement area, and asphalt surface parking.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The Assessment Review Board derives its authority under Part 11 of the Act. No specific jurisdictional or procedural matters were raised during the course of the hearing.

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 7 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: Subject is wrongly classified as a freestanding

Issue 2: Vacancy applied to the non-anchor space is not supported by market indicators

The Complainant submits that a correct assessment value is \$9,910,000 [Exhibit C1 pg 3].

Issue 1:

The Complainant submits that the subject property is inequitably assessed in relation to community shopping centres or strip shopping centres which are awarded higher vacancy allowances, higher vacancy shortfall allowances, and higher capitalization rates. To demonstrate an inequity, the Complainant submitted several community shopping centres and strip shopping centre assessment valuation worksheets indicating the higher allowances [C1 Pg 24-120].

The Respondent argued that the subject, with 2 CRU's (Commercial Retail Units) and 2 freestanding restaurant "pads" is not a strip shopping centre, but rather is correctly stratified as freestanding retail property, and is awarded the same coefficients on a mass appraisal basis as other freestanding retail improvements. The criteria relied on to differentiate freestanding retail properties from strip shopping centres is the total number of Commercial Retail Units in the property:

- | | |
|----------------------------|-----------------|
| • "Freestanding Retail" | 3 or less CRU's |
| • "Strip Shopping Centres" | 4 or more CRU's |

In support of the 8.00% capitalization rate applied to freestanding retail properties, the Respondent provided an analysis of 5 sales exhibiting a median capitalization rate of 7.46%. The Respondent did not provide any evidence in support of the other coefficients applied to freestanding retail properties, nor in support of the coefficients applied to community shopping centres or strip shopping centre properties to confirm the differentiation between the three groups of properties.

Decision- Issue 1

The Board finds that the subject property is properly classified as a freestanding retail property, and is not inequitably assessed in relation to community shopping centres or strip shopping centres.

Simply comparing a subject property to other (dissimilar) properties, valued with different coefficients does not establish that an inequity exists. The Board finds that the format of the subject property is not at all similar to a community shopping centre, with a large number of CRU spaces and at least one anchor tenant to draw customers to the site. With respect to the comparison to strip shopping centres, although the Board is not convinced that relying on the total number of Commercial Retail Units in a property is the only criteria to properly differentiate freestanding retail properties from strip shopping centres, there was no market evidence presented to establish that the Assessor's stratification criteria was incorrect.

Issue 2: Vacancy applied to the non-anchor space is not supported by market indicators.

The Complainant submitted a CRU Vacancy Study setting out CRU vacancies within Community and Neighbourhood shopping centres, in support of an 11% vacancy allowance on the subject's restaurant "pad" sites. The average and weighted average were indicated to be 11.87% and 10.62% respectively.

Decision- Issue 2

The Board finds that there was insufficient evidence with respect to vacancy rates to disturb the assessment. The vacancy rate at 4% is confirmed.

The Board found the Complainant's vacancy study of limited value, as the properties analyzed were community and neighbourhood shopping centres from throughout the municipality, and not freestanding retail properties in a similar market area to the subject. The Board also does not accept the Complainant's position that the 40,441 sq.ft. retail component is an "anchor" tenant space which would support a comparison to the shopping centre properties in the study; it is demised into 2 typical large format CRU spaces within a freestanding structure.

PART D: FINAL DECISION

The assessment is confirmed at \$10,280,000.

Dated at the City of Calgary in the Province of Alberta, this 12 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. Berzins	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.*