

**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

D. Julien, MEMBER

Y. Nesry, MEMBER

A hearing was convened on July 28, 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:	200075117
LOCATION ADDRESS:	11595 Rockyvalley Drive NW
HEARING NUMBER:	59414
ASSESSMENT:	\$14,660,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 243,272 square foot (sq.ft.) parcel of land improved with a 62,800 sq.ft. neighbourhood shopping centre constructed in 2004, and paved surface parking. The development is known as Calgary Co-op, Rocky Ridge 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 17 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 vacancy rate applied to the subject property is inconsistent with both the market as of July 1st 2009 and equity with other properties and should be reduced to our requested values.
- Issue 2: The rental rate applied to the CRU space should be reduced from the applied rate for Restaurant space to the correct rate applied to CRU space.
- Issue 3: The rental rates applied to the various CRU space should be reduced to a level equitable with other neighbourhood and community shopping centres in the NW quadrant of the city.
- Issue 4: The Gas Bar rent should be reduced to reflect a rate of \$70,000.
(\$80,000 including carwash)

The Complainant requested an assessment of \$13,000,000.

Issue 1: The vacancy rate applied to the subject property is inconsistent with both the market as of July 1st 2009 and equity with other properties and should be reduced to our requested values.

In support of a 10% vacancy allowance, 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 186].

The Respondent submitted the recent assessment request for information (ARFI) forms for many of the properties in the Complainant's vacancy study, indicating levels of vacancy that were inconsistent with those set out in the study. Also put forward, was an analysis of the

Complainant's study with revisions based on data acquired from the ARFI forms, and adjustments reflecting the exclusion of 2 specific properties that, it was argued, should not be considered typical of the current market.

As the Respondent's evidence included ARFI forms completed and signed by the building owners and managers, the Board finds it to be more compelling than the summary evidence of the Complainant which did not include any supporting documentary evidence.

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 1

The Board finds that there is insufficient relevant evidence with respect to vacancy rates to disturb the assessment, and concurs with the Boards' findings in recent decisions of the Assessment Review Board included at pages 28 to 86 of exhibit R1.

Issue 2: The rental rate applied to the CRU space should be reduced from the applied rate for Restaurant space to the correct rate applied to CRU space.

The Complainant submitted photographs of the "Subway" tenant space in the subject property to illustrate that the space was interior CRU (commercial retail unit) space and not a free standing fast food structure.

The Respondent conceded that the market rent coefficient of \$30.00 per sq.ft. was in error and recommended a reduction to the current CRU rate of \$27.00 per sq.ft.

Decision - Issue 2

The Board finds that the area in dispute is improperly valued as freestanding fast food retail, and accepts the Respondent's recommendation to allocate the area as interior CRU space.

Issue 3: The rental rates applied to the various CRU space should be reduced to a level equitable with other neighbourhood and community shopping centres in the NW quadrant of the city.

The Complainant submitted eight property assessment calculations as equity comparables, indicating a market rent coefficient range of \$21.00 to \$24.00 per sq.ft. for CRU areas of 1,000 to 2,500 sq.ft., and a market rent coefficient range of \$20.00 to \$23.00 per sq.ft. for CRU areas of 2,501 to 6,000 sq.ft. [C1 pgs 27-34]

The Respondent presented five equity comparables for each of the CRU size ranges in dispute to illustrate that the \$27.00 and \$26.00 per sq.ft. market rent coefficients were equitably applied to properties similar to the subject. [R1 pgs 26-27]

Decision – Issue 3

The Board finds that the Complainant's equity comparables are dissimilar to the subject property due to their ages and locations. Further, there was no evidence to support the Complainant's assertion that the comparables were located in superior locations, and would therefore attract higher rents, compared to the subject property located in a newly established neighbourhood.

The Board found the Respondent's equity comparables compelling as the majority of the comparables were located in the same market area (WN2) as the subject property.

Issue 4: The Gas Bar rent should be reduced to reflect a rate of \$70,000.
(\$80,000 including carwash)

The Complainant submitted several examples of gas bar lease rates, and several gas bar equity comparables in support of a reduction in the assessment of the gas bar and car wash.

The Respondent conceded that the gas bar and car wash assessment, based on a net income of \$105,000 was incorrect, and recommended a revision to \$80,000 as per the Complainant's request.

Decision – Issue 4

The Board finds that the gas bar and car wash is improperly valued at a \$105,000 net rent value, and accepts the Respondent's recommendation to correct the assessment to a net income coefficient of \$80,000.

It is noted that the Respondent's calculation on page 255 of exhibit R1 addresses the Board's findings in issue 2 and issue 4 above.

PART D: FINAL DECISION

The assessment is revised from \$14,660,000 to \$14,320,000.

Dated at the City of Calgary in the Province of Alberta, this 3 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. B. Thompson	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.*