

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Steven C. Kashuba, PRESIDING OFFICER

John Mathias, MEMBER

Donald Steele, MEMBER

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

ROLL NUMBER: 018005595

LOCATION ADDRESS: 5403 Crowchild Trail NW

HEARING NUMBER: 57454

ASSESSMENT: \$10,630,000

This complaint was heard on 7th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212-31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Kam Fong*

Appeared on behalf of the Respondent:

- *Wanda Wong*

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

At the outset of the hearing the Complainant indicated that in addition to the two issues of lease and vacancy rates initially indicated on the complaint form, one additional issue would be argued before the Board. This issue has to do with the floor area of the subject property. In their Pro-Forma (R-1, page 10) the Respondent indicated that the area is 55,757 square feet while the area listed in the Complainant's Assessment Request for Information (R-1, page 21) listed the area as being 55,078 square feet.

It is the position of the Complainant that if the ARFI information as regards floor area were used in the Respondent's Pro-Forma, a reduced assessment value would be derived.

The Respondent objected to the Complainant's attempt to introduce an issue not presented in the appropriate format and at the appropriate time so that the Respondent might have sufficient time in which to respond to the complaint.

The Board considered the evidence before it and upheld the Respondent's objection to the presentation of any new issues.

By way of reasons for the Board's decision, it is concluded that the addition of a new issue not presented in the original complaint form would not be consistent with the Municipal Government Act or the associated Regulation.

Notwithstanding the Board's decision in this matter, it is also concluded that the square footage of the subject property as presented by the Complainant by way of the ARFI, which is 647 square feet less than that represented in the Respondent's Pro-Forma, was not supported by any direct evidence in the first instance and secondly, were the Board to accept the Complainant's request to reduce the floor area, would also bring into question the matter of introducing a new issue that was not initially a part of this complaint. As a result, the Board concludes that the square footage of the subject property as represented in the Respondent's Pro-Forma is correct.

Property Description:

The subject property, located at 5403 Crowchild Trail NW, constitutes a commercial strip mall zoned as a Direct Control District. Constructed in 1978, the floor area of the building is 55,757 square feet and the site area is 102,408 square feet or 2.35 acres of land. The current assessment is \$10,630,000.

Issues:

1. The rental rates applied to leases in the subject property are too high.
2. A vacancy rate allowance of 4% applied to the subject property is too low.

Complainant's Requested Value: \$9,150,000.

Position of Complainant:

The Complainant submitted that the Respondent applied lease rates to the subject property in excess of the rates applied to comparable properties. In place of \$21 per square foot and \$20 per square foot (C-1, page 13), the Complainant request a value of \$19. Further to this, the Complainant is of the opinion that a vacancy rate allowance of 9% should be applied and not 4% (R-1, page 13) as applied by the Respondent. By applying a reduced lease rate and an increased vacancy rate allowance in the Respondent's Pro-Forma, the Complainant calculates that the assessment would be reduced to \$9,150,000 (R-1, page 155).

In support of their position the Complainant presented assessments of four properties in the NW sector of the City which reflect lease rates ranging from \$16 per square foot to \$19 per square foot for like properties as opposed to the Respondent's application of \$21 and \$20 per square foot (R-1, page 11). In addition, the Complainant presented 37 vacancy reports in various sectors of the City which show that the median vacancy rate is higher than 10% and that a rate of 9% should be applied to the subject property as opposed to the Respondent's 4%.

Position of Respondent:

The Respondent presented a lease rate of \$21 per square foot and \$22 per square foot for two properties near the subject property, both of which support the lease rates as applied to the subject property for CRUs of 0 to 1,000 square feet and CRUs of 1,001 to 2,500 square feet. Other lease rates in the neighbourhood for CRUs ranging in area from 1,001 to 2,500 square feet range from a low of \$18 per square foot to a high of \$24 per square foot (R-1, pages 12 and 13). In addition, the Respondent presented a list of 27 strip mall properties in NW Calgary, in each of which was applied a vacancy rate allowance of 4%.

Finally, the Respondent indicated that five earlier decisions of Composite Assessment Review Boards concluded that the application of a 4% vacancy rate to strip malls in the NW sector of the City was fair and just.

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

The Board finds that the Respondent's assessment is supported by the following:

1. A typical vacancy allowance rate of 4% is applied to all strip malls in the NW sector of the City as well as to the subject property, and
2. The lease rates as applied to the two categories of CRUs at issue in the subject property are consistent with the application of similar rates to similar properties in the same sector of the City.

The Board places little weight upon the Complainant's representation that the lease rates applied to the subject property are too high in that the comparables presented by the Complainant lack comparability by virtue of their square footage, location in the City, effective year of build, and quality. Similarly, the Board places little weight upon the evidence presented by the Complainant as regards the vacancy rate allowance in that most of the comparables come from other segments of the City and do not reflect the relatively low vacancy rates as portrayed by strip malls in the NW quadrant of the City.

Board's Decision:

It is the decision of the Board to confirm the assessment of the subject property for 2010 at \$10,630,000.

Reasons

The Board is persuaded by the evidence presented by the Respondent by way of equity and lease rate comparables which show that the assessment of the subject property is fair and correct. In addition, the Complainant's submission to the Respondent of lease rates currently in place within the subject property (R-1, page 24, Rent & Lease Term Report) would indicate that the Respondent's application of lease rates as presented in their Pro-Forma (R-1, page 10) are fair and correct.

The Complainant failed to convince the Board that lease rates in strip malls in the same sector of the City were lower than those applied to the subject nor did the Complainant prove that the vacancy rate of 4% as applied by the Respondent in their Pro-Forma to strip malls in the NW sector of the City was incorrect. It is for these reasons that the Board concludes that the assessment is fair and correct.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF September 2010.



Steven C. Kashuba
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.*