

**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

Donald Steele, MEMBER

John Mathias, 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: 124193608

LOCATION ADDRESS: 9615 Macleod Trail SW

HEARING NUMBER: 57413

ASSESSMENT: \$3,120,000

This complaint was heard on the 9th 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:

- *Barbara Duban*

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

There were no procedural or jurisdictional matters brought forward.

Property Description:

The subject property is known as Ranchman's Restaurant and is located in Commercial Corridor 3 on Macleod Trail. Built in 1972, the improvements are located on 2.74 acres of land and the area of the building is 16,281 square feet. The current assessment is \$3,120,000.

Issues:

1. The lease rate per square foot applied by the Respondent is excessive.

Complainant's Requested Value: \$2,480,000

Position of Complainant:

It is the position of the Complainant that the lease rate of \$20 per square foot applied by the Respondent to the main floor of the restaurant is excessive given the size and quality of the subject property. In place of the \$20 rate, the Complainant requests that a value of \$16 per square be applied.

In support of their position, the Complainant presented the rent rate of Schanks Athletic Club, which is a nearby restaurant development and which is assessed at \$14 per square foot. It is their submission that this property exhibits similar characteristics to that of the subject property. Three additional comparables were provided (C-1, page 35); however, too little detail was provided through which the Board would be able to make a valid comparison to the subject property.

In addition, the Complainant provided 6 comparable leases located on Macleod Trail SE; however, these leases are for retail properties and their applicability to the subject property is brought into question. Finally, the Complainant presented 7 restaurant lease comparables, one of which is the subject property. The average lease rate, excluding the subject property, is \$17.71 per square foot while the Complainant is seeking a rate of \$14 per square foot.

Position of Respondent:

In support of the assessment, the Respondent presented 3 lease comparables of restaurants located on Glenmore Trail and Macleod Trail (R-1, page 20). The rent rates for these 3 restaurants are listed as \$20.37, \$27.50, and \$20.83 while the subject is assessed at \$20 per square foot (R-1, page 13).

In addition to the evidence dealing with lease comparables, the Respondent presented 2 land sales which occurred on Macleod Trail and Horton Road (R-1, page 21). On average, the market value of these 2 sales is \$105.05 per square foot while the subject property is assessed at \$26 per square foot.

Board's Decision in Respect of Issue:

The Board finds that the Complainant presented only one lease comparable that has a similar function as a restaurant (Schanks Athletic Club) and which provides some detail upon which the Board might make a judgement as to its reliability as a lease comparable. However, it is the conclusion of the Board that since the lease, signed in 2004, is somewhat dated and does bring into question its reliability as a measure of its current market value.

The other three lease comparables lacked any detail as to their location, condition, year of construction, and use through which the Board would be able to make a valid comparison. Even though the reliability of these lease comparisons is brought into question, the Board notes that the average of these lease comparables (C-1, page 36) is nearly \$18 per square foot, thereby eroding the Complainant's basis for their support for a lease rate of \$14 per square foot.

Additionally, the Board places little weight upon the *retail* comparable leases provided by the Complainant in that their use varies with that of the subject which operates as a restaurant.

As for the evidence provided by the Respondent, the Board finds that the lease rate of \$20 per square foot is supported by similar developments in the same sector of the City. As well, the Respondent presented two land sales in the same sector of the City in support of the concept of *highest and best use* which supports the assessment amount.

Board's Decision:

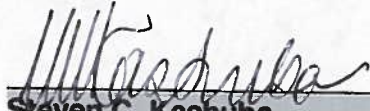
It is the decision of the Board to confirm the assessment of the subject property for 2010 at \$3,120,000.

Reasons:

The Board is persuaded by the rent rates of similar properties presented by the Respondent which support the assessment. In particular, the Board notes that two recent land sales in the vicinity garnered values per square foot which far exceed the values applied to the subject property.

In respect of the evidence provided by the Complainant, the Board concludes that one comparable property, the Schanks Restaurant, is not sufficiently compelling as to trigger a reduction in the assessment amount.

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.*