

**CALGARY
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, Complainant

and

The City Of Calgary, Respondent

before:

***Board Chair, T Golden
Board Member, H Ang
Board Member, D Cochrane***

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: 085067908

LOCATION ADDRESS: 121 Stewart Gr. SW

HEARING NUMBER: 59245

ASSESSMENT: \$10,010,000.00

This complaint was heard on 4 day of November, 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:

- *C Fong*

Appeared on behalf of the Respondent:

- *P Sembrat*

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

There were no preliminary matters in this case.

Property Description:

The subject property is a multi tenanted retail commercial mall referred to as West Hills Towne Centre. The improvement contains 25,014 square feet (sq ft) in two buildings constructed on 3.6 acres of land. Portions of the improvements were constructed in 1963 and 1993. Assessed portions of the subject property include bank commercial retail units (CRU) and restaurant space.

Issues:

- 1) Is the space assessed by the Respondent allocated to the proper classification for the establishment of typical rents? In particular should the space allocated to restaurant and fast food restaurant be classified CRU.

Complainant's Requested Value:

The Complainant recalculated the income approach with the reduced rental rates and developed the requested rate of \$9,700,000.00

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

- 1) The area categorized by the Respondent as restaurant should be included in the CRU category and the appropriate reduced rental rate applied.

The Complainant stated that the Respondent made an error by assessing a 3258 sq ft area as restaurant and a 2113 sq ft area as fast food restaurant when the areas in question were not free standing structures. Therefore according to the Respondents assessment procedures these areas should be considered as CRU. With the change in classification requested, the rental rates would be reduced to \$28.00 from \$30.00 /sq ft for the restaurant area and to \$32.00 from \$40.00 /sq ft for the fast food restaurant.

The Respondent agreed that the classification of restaurant space was in error and further explained how the information was entered into the model. The requested assessment was not disputed

The Board considered the evidence and agreed with the Complainant and the Respondent that an error occurred in the classification of the restaurant areas. When these factual errors are corrected the calculation presented by the Complainant reflects the correct and undisputed assessed value.

Board's Decision:

The Board establishes the assessment at \$9,700,000.00

DATED AT THE CITY OF CALGARY THIS 25 DAY OF November 2010.

A handwritten signature in blue ink, appearing to read "Tom Golden", is written over a horizontal line.

Tom Golden
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C-1 Letter of Complaint
2.	Exhibit C-2 Complainants Brief
3.	Exhibit R-3 Respondent's Assessment Brief

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.*