

**CALGARY  
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)  
REVISED 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:**

***M. Chilibeck, PRESIDING OFFICER***

***P. Pask, MEMBER***

***J. Rankin, 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: 200683597**

**LOCATION ADDRESS: 12300 – Symons Valley RD NW**

**HEARING NUMBER: 56397**

**ASSESSMENT (2010): \$101,930,000**

This complaint was heard by the Composite Assessment Review Board on 20th day of October, 2010 at the office of the Assessment Review Board in Boardroom One located on Floor Number Four at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- K. Fong

Appeared on behalf of the Respondent:

- B. Thompson

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

There were no objections to the composition of the Board.

The Respondent advised the Board that a revision to the assessment is requested to reflect the correction of the assessed area and the allocation of this area into various categories. The revised assessment is \$73,810,000.

**Property Description:**

The subject property is a community shopping centre located in the Evanston community in northwest Calgary known as Creekside Shopping Centre. The property is improved with several single storey multi and single tenant buildings and two free standing gas bars, constructed in 2006. The total area is 289,473 square feet (sq. ft.) divided into several categories with an assessed rental rate for each category. The five CRU categories comprise 123,896 sq. ft.

The subject is the newest shopping centre in Calgary.

**Issues:**

The ARB complaint form identified several reasons for complaint; however at the outset of the hearing the Complainant clarified there were three reasons:

- 1) The total assessed area of the shopping centre is incorrect.
- 2) The assessed rental rate for the CRU's are in excess of current market value.
- 3) The assessed vacancy allowance for the CRU's does not recognize the long term (chronic) actual vacancy of the subject.

**Complainant's Requested Value:** \$51,680,000.

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

**Issue 1)**

The Complainant accepted the Respondent's total area correction from 385,203 sq. ft. to 289,473 sq. ft and the allocation of the area into various categories.

**Issue 2)**

The Complainant provided a list of 15 shopping centres in northwest Calgary showing the CRU assessed rate per area category as equity comparables in support for the requested rental rates. The following chart lists the comparative rates.

<i>Size range</i>	<i>0 to 1000 sq. ft.</i>	<i>1001 - 2500 sq. ft.</i>	<i>2501 - 6000 sq. ft.</i>	<i>6001 and over</i>
Rate Range	\$19 to \$28	\$18 to \$27	\$17 to \$26	\$16 to \$22
Comp Median	\$25.50	\$24.00	\$23.00	\$20.00
Comp average	\$25.08	\$23.79	\$22.79	\$20.00
Requested Rate	\$26.00	\$24.00	\$23.00	\$20.00
Assessed Rate	\$34.00	\$33.00	\$30.00	\$27.00

A CARB decision on Dalhousie Shopping Centre, #971-2010-P, was submitted wherein the Board changed the assessed rental rate for the 6001 and greater CRU category to \$18 per sq. ft. in support for the requested rate of \$20.

The Respondent provide an analysis of the actual rents paid versus the assessed rates of the subject for the various CRU categories as shown in the following chart.

<i>Size range</i>	<i>0 to 1000 sq. ft.</i>	<i>1001 - 2500 sq. ft.</i>	<i>2501 - 6000 sq. ft.</i>	<i>6001 and over</i>
Actual Median	\$39.00	\$36.00	\$30.00	\$33.00
Assessed Rate	\$34.00	\$33.00	\$30.00	\$27.00

The Respondent asserted the above analysis supports the assessed CRU rates.

The Board is not persuaded to change the assessed rent rates as requested by the Complainant. The comparables range in age and are older than the subject. The ages of these comparables was not provided to the Board to make an informed decision on comparability to the subject. As the subject is the newest shopping centre in Calgary, the Board believes that it would be reasonable to expect the rates to be at the top of the range or higher. The Board notes that the subject was not included in the complainant's CRU median rate analysis, however when comparing the analyzed median rates to the actual median rates for the subject, the Board believes it would reasonable to trend the assessed rate upwards accordingly.

The Board finds the Respondent's analysis persuasive in supporting the assessed rates. For the most part the assessed rates are less than the median of the actual rates and the Board believes this recognizes the newness of the subject shopping centre and equity to the comparables.

**Issue 3)**

The Complainant requests the vacancy rate for the CRU space be increased from 2% to 20% to recognize long term vacancy. The subject shopping centre has had significant vacant space since it was constructed in 2006 with many of the CRU's currently vacant. Over the past 12 months 23% to 30% of the space has been vacant and several tenants have entered into relief negotiations because the sales volume does not satisfy the rent payable.

Three tenant rolls for the subject property were provided by the Complainant as of January 1, 2009, July 1, 2009 and January 1, 2010 showing the CRU vacancy at 23%, 22% and 30% respectively in support that there is still a significant amount of CRU vacant space. In rebuttal, a tenant roll as of October 16, 2007 was provided showing CRU vacancy at 23% in support that since the inception of the subject to January 1, 2010 there has been long term vacancy.

The Complainant submitted several examples of properties where the Respondent recognized long term vacancy in the 2009 and 2010 assessment and one CARB decision confirming the assessed vacancy regarding a downtown property in support for the claim for long term vacancy.

The Respondent advised the Board that their guideline for applying a chronic vacancy is when 30% or more of the property has been vacant for three consecutive years. This excludes the time when space is vacant for renovations, redevelopment, etc.

The Respondent made reference to three years of ARFI's (assessment request for information) and asserted that there is not three years of chronic vacancy and no justification for the requested vacancy rate of 20%; the subject is a new development.

The Respondent noted the differing total rentable areas from one ARFI to the next and asserted that their calculations show vacancy of 8% and 11% for 2009 and 2010 respectively. Also, the 2008 ARFI shows there was 0% vacancy. In the Complainant's rebuttal a tenant roll as of 06/01/08 shows the developer, Hopewell Development, as the tenant for the vacant space. The Complainant asserted this space was held by Hopewell to facilitate the sale to the purchaser. Most of this space is currently not occupied.

Finally the Respondent advised the board the subject property sold in December, 2007 for \$96,440,981 on the basis "the buildings were fully occupied with tenancy characterized by both national and local businesses". In the Complainant's rebuttal a list of numerous shopping centre sales was provided showing the subject sale is considered as non-arms length and there was a predetermined partnership between the purchaser and Hopewell who had an interest in the land since 2005.

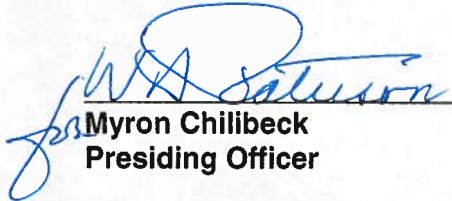
The Board finds the Complainant's evidence persuasive that the subject CRU's have been significantly vacant for the past three years. This is supported by the Complainant's tenant rent rolls for the past three years. This new development has been caught in the recent financial turmoil and as a result has not been able to lease up the CRU spaces. As was said, this development is either ten years too early or ten years too late.

The Board placed very little weight on the sale of the subject in 2007 as the evidence brought forward indicates that it is not an arms-length transaction. The information provided by the Complainant shows the City of Calgary's comment of "predetermined partnership between CREIT and Hopewell" and this statement provides insight as to why Hopewell was listed as the tenant of the vacant space on a tenant roll to facilitate the sale. The Board considers the space unoccupied and is convinced there is long term chronic vacancy and therefore changes the vacancy rate to 20% for the CRU space.

**Board's Decision:**

In using the areas as agreed to by both parties and changing the CRU vacancy rate to 20%, the Board changes the 2010 assessment to \$63,270,000 (revised from the original decision amount of \$65,500,000).

DATED AT THE CITY OF CALGARY THIS 23<sup>rd</sup> DAY OF NOVEMBER 2010.



Myron Chillibeck  
Presiding Officer

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB**

No.	Item	
1.	Exhibit 1C	Complainant's Evidence Package
2.	Exhibit 2R	Respondent's Evidence Package (in four parts)
3.	Exhibit 3C	Complainant's Rebuttal Package

*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.*