

**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 Ltd. COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

B. Horrocks, PRESIDING OFFICER

J. O'Hearn, MEMBER

D. Pollard, MEMBER

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

ROLL NUMBER:	200768612
LOCATION ADDRESS:	11650 SARCEE TR NW
HEARING NUMBER:	59160
ASSESSMENT:	\$14,720,000

This complaint was heard on the 17th 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:

- Mr. K. Fong (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Ms. S. Turner

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

None. The merit hearing proceeded.

Property Description:

The subject property is a 5.36 acre parcel located in the Sherwood community in NW Calgary, within what is commonly referred to as the Beacon Hill Power Centre. The site contains 6 buildings that were constructed in 2009 and are considered to be of A- quality. The buildings contain a total of 33,618 sq. ft. of rental space consisting of relatively small CRUs and 2 freestanding restaurants.

Issues:

The Assessment Review Board Complaint form contained 8 Grounds for Appeal. At the outset of the hearing, the complainant advised that there were only 3 outstanding issues, namely:

1. The assessed rental rate applied to the subject property's CRU spaces should be between \$26.00 and \$28.00 / sq. ft. similar to other Power Centres.
2. The Fast Food Restaurant assessed rental rate is incorrect and should be no higher than \$30.00 / sq. ft.
3. The Full Service Freestanding restaurant assessed rental rate is incorrect and should be no higher than \$28 per sq. ft.

Complainant's Requested Value: \$11,350,000

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

At the beginning of the hearing, the parties advised that they had agreed to a reallocation of spaces within the site, as depicted on R-2, and as follows:

Space 1	0 – 1000SF	3,332 sq. ft.
Space 2	CRU 1001 – 2500 SF	9,904 sq. ft.
Space 3	CRU 2501 – 6000 SF	9,394 sq. ft.
Space 4	Restaurant Pad	10,988 sq. ft.
Total		33,618 sq. ft.

Issue Rent Rate CRU 0 – 1000 SQ.FT.

The Complainant submitted Evidence Submission labelled C-1 and requested a change in the applied rent rate from \$36.00 to \$28.00 / sq. ft..

The Complainant, at page 25, provided a Lease Summary which contained 4 leases with rates ranging from \$36.00 to 39.50 / sq. ft.

The Complainant, at page 53, provided 3 purported Equity Comparables from within the Country Hills Power Centre and argued that the subject should be compared to the Country Hills Power Centre. The assessed rents were \$28.00 / sq. ft.

The Respondent, submitted Assessment Brief labelled R-1.

The Respondent, at page 16, provided the same 4 leases as the Complainant, plus one additional lease within the subject, and noted that the median lease rate was \$37.00 / sq. ft.

The respondent, at page 16, also provided 4 Lease Comparables from within the Crowfoot Power Centre, with lease rates ranging from a low of \$36.00 to a high of \$51.00 / sq. ft.

The Board finds the leases from within the subject to be the most compelling evidence. The leases are relatively new and support the \$36.00 / sq. ft. rate applied in the assessment.

Issue Rent Rate CRU 1001 – 2500 SQ.FT.

The Complainant requested a change in the applied rent rate from \$32.00 to \$26.00 / sq. ft.

The Complainant, at page 25, provided a Lease Summary which contained 7 leases with lease rates ranging from \$35.00 to \$40.00 / sq. ft.

The Complainant requested equity with the Power Centre in Country Hills that has assessed rental rates of \$26.00 / sq. ft.

The Respondent, at page 17, provided the same 7 leases plus 11 others within the same Power Centre with lease rates from \$32.00 to \$37.00 / sq. ft. The combined median lease rate was \$35.50 / sq. ft.

The Board finds the leases from within the subject, with a median lease rate of \$35.50 / sq. ft., to be more than supportive of the \$32.00 / sq. ft assessed rate.

Issue Rent Rate CRU 2501- 6000 SQ.FT.

The Complainant requested a change in the applied rent rate from \$29.00 to \$24.00 / sq. ft.

The Complainant, at page 25, provided a Lease Summary, with 3 leases of \$35.00, \$37.00 and \$38.00 / sq. ft. respectively.

The Complainant, at page 53, provided purported Equity Comparables noting that the Business Assessment within the subject was \$27.00 / sq. ft. He noted that within the Country Hills Power Centre the property assessment was \$24.00 / sq. ft. and argued that the subject should be

treated equitably with the Country Hills Power Centre. In addition, he argued that Business and Property Assessments are based on the same parameters and should therefore achieve the same result.

The Respondent, at page 19, provided a Lease Summary which contained the same 3 leases from within the subject property, and 16 additional leases from within the same Power Centre and noted that the median lease rate of the combined leases was \$30.00 / sq. ft.

The Board finds the median of the leases from within the same Power Centre to be supportive of the \$29.00 / sq. ft. lease rate applied.

Issue Rent Rate Freestanding Restaurant

The Complainant requested a change in the applied rental rate from \$35.00 to \$28.00 / sq. ft.

The Complainant, at pages 32 thru 49, provided purported equity comparables from a number of restaurants across the City with assessed rental rates of \$28.00 / sq. ft. with the exception of two restaurants in the Crowfoot Power Centre that are assessed at \$30.00 / sq. ft.

The Respondent, at page 20, provided 2 leases within the subject, both entered into in 2009 with lease rates of \$33.00 / sq. ft. and 4 leases from the Crowfoot Power Centre. The median lease rate of the 6 leases combined is \$35.00 / sq. ft.

The Board finds the market rent to be \$35.00 / sq. ft. as supported by the two leases within the subject and the 4 lease comparables within the Crowfoot Power Centre. However, the assessed rent rate on the restaurants in the Crowfoot Power Centre is \$30.00 / sq. ft. Therefore, to achieve equity, the Board finds the appropriate assessed rate to be \$30.00 sq. ft.

Board's Decision:

Substituting the new rent rate of \$30.00 / sq. ft. for freestanding restaurants into the Income Approach, and utilizing the same factors for Vacancy Rate (2%), Non recoverable rate (1%) and Operating costs (\$9.00 / sq. ft) yields a Net Operating Income (NOI) of \$1,001,934 which when capitalized at 7.5% yields a property value of \$13,359,120.

The 2010 assessment is reduced to \$13,350,000.

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


B. Horrocks
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.*