

**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 Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER

K. Coolidge, MEMBER

R. Deschaine, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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: 156163909

LOCATION ADDRESS: 16061 MACLEOD TR SE

HEARING NUMBER: 59380

ASSESSMENT: \$ 34,810,000

This complaint was heard on 22nd 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. A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Mr. K. Gardiner (The City Of Calgary)

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

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description:

The subject property is a commercial retail shopping centre known as "The Boulevard" and is located in the Shawnessy community "Power Centre" of SE Calgary. The property contains buildings of various sizes with a combined net rentable area of approximately 122,938 square feet (SF). The buildings are situated on an assessable land area of approximately 526,372 SF. The tenants of the property include Empire Theatres, Chapters, Tony Roma's, The Source and many other smaller and well known tenants that are typical of Power Centres.

The properties assessment was amended on February 1, 2010 and is assessed using the Income Approach to value with the following components and parameters:

1. "Anchor" space with 24,115 SF is assessed at a rate of \$16.00 per SF with a vacancy rate of 1%.
2. "Restaurant Dining Lounge" space with 22,818 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
3. "Theatre" space with 51,009 SF is assessed at a rate of \$20.00 per SF with a vacancy rate of 2%.
4. "CRU 1001-2500 SF" space with 5,541 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
5. "CRU 2501-6000 SF" space with 18,388 SF is assessed at a rate of \$26.00 per SF with a vacancy rate of 2%.
6. "Restaurant Fast Food" space with 1,067 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
7. All space with Operating costs of \$9.00 per SF at a non-recoverable rate of 1%.
8. A Capitalization rate (cap rate) of 7.5%

Issues:

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form are as follows:

1. The subject property is assessed in contravention of Section 293 of the *Municipal*

Government Act and Alberta Regulation 220/2004.

2. The use, quality, and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289 (2) of the *Municipal Government Act*.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. This Notice is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources. Therefore the requested assessment is preliminary in nature and may change.
5. The classification of the subject premise is neither fair, equitable, or correct.
6. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.
7. The assessment of the subject property is in excess of its market value for assessment purposes.
8. The municipality has incorrectly calculated the assessable area and dimensions of the subject property by areas which are incorrect and based on physical condition of the subject property, the ARFI, and the Rent Roll for the assessment year (Dec 31 '09).
9. The municipality has incorrectly calculated the assessable area and dimensions of the subject property by claiming square footage of 122,938.00
10. The assessed cap rate is incorrect and should be 8.5%.
11. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for the centre's retail space at 5%.
12. The assessed rental rate applied to the CRU 1000-2500 within the subject property should be \$24.
13. The assessed rental rate applied to the CRU 2501-6000 within the subject property should be \$23.
14. The assessed rental rate applied to the CRU 1000-2500 within the subject property should be \$27.
15. The assessed rental rate applied to the Restaurant space is inconsistent with other locations and should be assessed within the subject property at \$26.
16. The assessed rental rate applied to the CRU 1000-2500 within the subject property should be \$27.
17. The Big Box assessed rental rate is incorrect and should be no higher than \$15 per SF.

However, as of the date of this hearing, the Complainant addressed the following issues as restated below:

1. The rental rate applied to the Big Box (Anchor) space should be reduced from \$16 per SF to \$15 per SF to reflect equity and the current rental rate of the subject.
2. The vacancy rate for Theatre space should be increased to 2%.

Complainant's Requested Value:

\$28,030,000 on the complaint form revised to \$34,290,000 at this hearing.

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

ISSUE 1: The rental rate applied to the Big Box (Anchor) space should be reduced

from \$16 per SF to \$15 per SF to reflect equity and the current rental rate of the subject.

The Complainant's document of evidence labeled "Exhibit C1" provided the following evidence with respect to this issue:

- External pictures of the "The Boulevard" shopping Centre showing its placement and orientation within the "Shawnessy" Power Centre development.
- A listing of "Big Box stores between 20,000 SF and 70,000 SF. The listing highlighted the following:
 - For lease start dates between January 1, 1997 to August 1, 2009:
 - Lease rate range: \$9.10 to \$22.50 per SF.
 - Median lease rate \$15.00 per SF.
 - For lease start dates between July 27, 2008 to May 1, 2009 (the assessment year):
 - Lease rate range: \$12.50 to \$17.60 per SF.
 - Median lease rate \$15.00 per SF.

The Complainant concluded his analysis by indicating that the assessment rate applied to the Big Box or Anchor space should be reduced to \$15.00 per SF based on the median of the Big Box stores listing and the current rental rate of this space within the subject property.

The Respondent's document of evidence labeled "Exhibit R1" provided the following evidence with respect to this issue:

- A table of four lease rate comparables in the Shawnessy area, including the subject. The comparables included:
 - A "Michael's" with 24,267 SF of space, a lease rate of \$16.25 per SF and a lease start date of May 1, 2009.
 - A "Future Shop" with 23,070 SF of space, a lease rate of \$20.00 per SF and a lease start date of July 1, 2009.

The Respondent concluded his analysis by indicating that the assessment rate applied to the Big Box or Anchor space is properly assessed at \$16.00 per SF.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

- The assessment rate of \$16.00 applied by the Respondent to the Big Box or Anchor space of the subject is equitable and within an acceptable range of rental rates experienced by similar properties within the assessment year. An assessment rate of \$16.00 applied to the Anchor space of the subject is not inequitable when considering the lease rate comparables submitted by both parties.

ISSUE 2: The vacancy rate for Theatre space should be increased to 2%.

The Complainant's document of evidence labeled "Exhibit C1" provided the following evidence with respect to this issue:

- Three assessments of theatre spaces within shopping centres showing vacancy rates of 2%.

The Complainant withdrew this issue upon realizing that the Respondent did indeed provide a 2% vacancy allowance for theatre space within the subject's assessment.

Board's Decision:

The Board confirms the assessment to \$34,810,000.

DATED AT THE CITY OF CALGARY THIS 29 DAY OF November 2010.



Michael A. Vercillo

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.*