

**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: 711102004

LOCATION ADDRESS: 4307 130 AV SE

HEARING NUMBER: 59242

ASSESSMENT: \$ 89,160,000

This complaint was heard on 25th 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. I. McDermott (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 and Background:

The subject property is a McKenzie Towne shopping or "power" centre located in SE Calgary. The buildings have a net rentable area of approximately 311,522 square feet (SF) and are situated on an assessable land area of approximately 1,336,921 SF.

The property is assessed using the Income Approach to value with the following parameters:

- "Anchor" space of 50,269 SF is assessed at a rate of \$16.00 per SF with a vacancy rate of 1%.
- "Automotive Repair" space of 11,839 SF is assessed at a rate of \$22.00 per SF with a vacancy rate of 2%.
- "Bank" space of 13,764 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "CRU 0 – 1000 SF" space of 1,998 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "CRU 1001 – 2500 SF" space of 33,037 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
- "CRU 2501- 6000 SF" space of 56,348 SF is assessed at a rate of \$26.00 per SF with a vacancy rate of 2%.
- "CRU 6000+ SF" space of 59,400 SF is assessed at a rate of \$21.00 per SF with a vacancy rate of 2%.
- "Gas Bar" space of 1 SF is assessed with a "total market rent of \$45,000 with a vacancy rate of 2%.
- "Mezzanine" space of 1,055 SF is assessed at a rate of \$1.00 per SF with a vacancy rate of 2%.
- "Restaurant Dining Lounge" space of 25,824 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
- "Restaurant Fast Food" space of 8,592 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
- "Supermarket" space of 49,395 SF is assessed at a rate of \$15.00 per SF with a vacancy rate of 2%.

- Operating costs of \$9.00 per SF at a non-recoverable rate of 1%.
- 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 assessed cap rate is incorrect and should be 8.5%.
9. The Gas Bar assessed rental area has been incorrectly applied and should be increased from 1 to a minimum of 1,000 SF with a total PGI of no higher than \$45,000.
10. The assessed rental rate applied to the CRU < 1000 within the subject property should be \$27.
11. The assessed rental rate applied to the CRU 1000-2500 within the subject property should be \$27.
12. The assessed rental rate applied to the CRU 2501-6000 within the subject property should be \$24.
13. The assessed rental rate applied to the CRU > 6000 within the subject property should be \$19.
14. The Big Box assessed rental rate is incorrect and should be no higher than \$15 per SF.
15. The Bank area assessed rental rate is incorrect and should be no higher than \$28 per SF.
16. The assessed rental rate applied to the Automotive within the subject property should be \$18.
17. The assessed rental rate applied to the Grocery Space within the subject property should be \$13.
18. Not all of the space assigned to the Restaurant Fast Food does not exist at this site as a separate free standing parcel and therefore has been classified incorrectly and should be removed from the assessment. This is CRU Space and is not a fast food retailer.
19. Not all of the space assigned to the Restaurant Dining does not exist at this site as a separate free standing parcel and therefore has been classified incorrectly and should be removed from the assessment. This is CRU Space and is not as Dining Specific retailing.

20. The assessment has neglected to account for various elements of obsolescence.
21. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for CRU retail spaces at 5%.
22. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for Grocery Store anchors at 4%.
23. The box stores have been assessed as Anchor space, while throughout most of the City they are assessed as CRU Space, further they are not traditional anchor tenants, but more large CRU space, greater than 15,000 SF.
24. 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.
25. The City of Calgary has failed to adhere to multiple years of MGB decisions relating to the rental rate of grocery stores from 86/06, 87/06, 88/06, 076/09, and 002/10. Notwithstanding the specific oral decisions relating to this premise and property.

However, as of the date of this hearing, the Complainant and the Respondent mutually agreed to adjust various parameters of the original assessment as described below.

Complainant's Requested Value:

\$68,790,000 on the complaint form revised to \$89,160,000 at this hearing.

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

The Complainant agreed to the current assessment value provided that adjustments were made to the following parameters of the original Income Approach assessment of the subject property:

- Restaurant Dining Lounge space reduced to 17,359 SF.
- Bank space reduced to 10,977 SF.
- CRU 1001-2500 SF space increased to 34,634 SF.
- CRU 2501-6000 SF space increased to 66,715 SF.
- CRU 6000 + SF space increased to 59,512 SF.
- The Big Box or Anchor assessed rental rate reduced to \$15 per SF and its vacancy rate increased to 2%.
- The Gas Bar PGI increased to \$105,000.

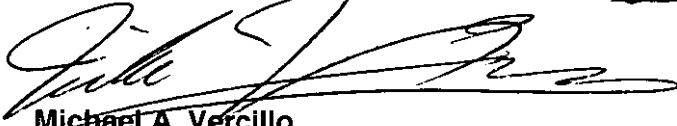
The Respondent agreed to make the above changes to the original assessment.

The CARB agrees with revisions of the original assessment outlined above as mutually agreed and calculated.

Board's Decision:

The Board confirms the assessment at \$89,160,000.

DATED AT THE CITY OF CALGARY THIS 26 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.*