

**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

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: 757109608

LOCATION ADDRESS: 275 SHAWVILLE BV SE

HEARING NUMBER: 59858

ASSESSMENT: \$ 27,410,000

This complaint was heard on 26th 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:

- 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 part of the Shawnessy shopping or "power" centre located in SE Calgary. The property is a multi-building complex including a Zellers, with a net rentable area of approximately 162,988 square feet (SF). The buildings are situated on an assessable land area of approximately 576,319 SF.

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

- "Bank" space of 5,000 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "Big Box" space of 122,616 SF is assessed at a rate of \$8.00 per SF with a vacancy rate of 1%.
- "CRU 0 – 1000 SF" space of 3,488 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "CRU 1000 - 2500 SF" space of 11,145 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
- "Restaurant Dining Lounge" space of 17,281 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
- "Restaurant Fast Food" space of 3,458 SF is assessed at a rate of \$28.00 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 assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for CRU retail spaces at 5%.
10. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for the Retail Anchors at 4%.
11. The assessed rental rate applied to the CRU < 1000 within the subject property should be \$25.
12. The assessed rental rate applied to the CRU 1000-2500 within the subject property should be \$25.
13. The Bank area assessed rental rate is incorrect and should be no higher than \$28 per SF.
14. The assessed rental rate applied to the Anchor Tenant within the subject property should be \$7.

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

1. The allocation of restaurants space is in error and should be reallocated to CRU space.
2. The rental rates applied to the CRU space of the subject is neither fair nor equitable.

Complainant's Requested Value:

\$20,840,000 on the complaint form revised to \$26,320,000 at this hearing.

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

ISSUE 1: The allocation of restaurants space is in error and should be reallocated to CRU space.

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

- A rent roll of the subject property outlining the various leases in place. The tenant names along with area occupied, lease start and end dates, and lease rates were provided. The areas of the various tenants were summarized with the following information:
 - Bank 5,000 SF
 - Big Box 122,616 SF
 - CRU 0-1000 3,488 SF
 - CRU 1001-2500 17,660 SF

- CRU 2501-6000 3,530 SF
 - Restaurant Full Service 10,694 SF
 - Total 162,988 SF
- A City of Calgary Assessment Request For Information (ARFI) dated April 17, 2009, in support of the space allocation

The Complainant concluded his analysis by indicating that the allocation of some of the restaurant space should be reallocated as described above and as supported by the ARFI.

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

- An "Income Approach Calculator" redistributing restaurant space to CRU space as outlined above and requested by the Complainant. The resulting reallocation of space derived a revised assessment value for the subject of \$27,320,000 with the following changes to the original assessment:
 - "CRU 1001 - 2500 SF" space of 17,660 SF was assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
 - "CRU 2501 - 6000 SF" space of 3,530 SF was added and assessed at a rate of \$26.00 per SF with a vacancy rate of 2%.
 - "Restaurant Dining Lounge" space of 10,694 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
 - "Restaurant Fast Food" space was deleted.

The Respondent concluded his analysis by indicating that the allocation of some of the restaurant space should be reallocated as described by the Complainant and accepted in the calculation of the Respondent.

Decision: Issue 1

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

- The reallocation of restaurant space to CRU space as agreed to by both parties is accepted.

ISSUE 2: The rental rates applied to the CRU space of the subject is neither fair nor equitable.

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

- A chart entitled "Additional Shawnessy Rental Comparisons" grouped by CRU spaces of less than 1000 SF, 1000 to 2500 SF and 2501 to 6000 SF. The chart provided the following information:
 - Two CRU spaces of less than 1001 SF:
 - Lease rate range: \$23.50 to \$24.00 per SF.
 - Fourteen CRU spaces between 1001 to 2500 SF:
 - Lease rate range: \$21.00 to \$35.00 per SF.
 - Median: \$24.50
 - Six CRU spaces between 2501 to 6000 SF:
 - Lease rate range: \$19.00 to \$27.00 per SF.
 - Median: \$23.75
- A rent roll of a comparable property located at 303 Shawville Blvd. SE. The rent roll summary provided the following information:

- One CRU space between 1001 to 2500 SF had a rental rate of \$30.00 per SF
 - Four CRU spaces between 2501 to 6000 SF had a median rental rate of \$18.50 per SF
- A rent roll of the subject property provided the following information:
 - Four CRU spaces of less than 1001 SF had a median rental rate of \$25.00 per SF
 - Thirteen CRU spaces between 1001 to 2500 SF had a median rental rate of \$25.00 per SF
 - One CRU space between 2501 to 6000 SF had a rental rate of \$26.50 per SF
- A City of Calgary "2010 Business Lease Comparable Report" of six CRU spaces of various sizes located in SE Calgary shopping centres. Only two of the comparable properties had a CRU space of less than 6,000 SF. Both showed a rental rate of \$28.00 per SF
- Another City of Calgary "2010 Business Lease Comparable Report" of six CRU spaces between 2,501 and 6,000 SF, located at 4307 130 AV SE, showing a median lease rate of \$24.00, and all negotiated within one year of the valuation date of July 1, 2009.
- A City of Calgary "2010 Business Assessment Comparable Report" of five CRU spaces between 2,501 and 6,000 SF, located at 4307 130 AV SE, showing a business assessment rate of \$24.00.

The Complainant concluded his analysis by indicating that the assessment rate applied to subject's CRU spaces should be reduced as follows:

- "CRU 0 – 1000 SF" space at a rate of \$25.00 per SF.
- "CRU 1000 - 2500 SF" space at a rate of \$25.00 per SF.
- "CRU 2501 - 6000 SF" space at a rate of \$24.00 per SF.

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

- A listing of leases of comparable properties with lease rates ranging from \$17.00 per SF to \$47.00 per SF for CRU spaces of less than 6,000 SF. The list contained a CRU space of 1,640 SF within the subject property that had a lease rate of \$33.00 per SF. This same lease space is listed by the Complainant in his evidence at \$15.00 per SF.
- A partial ARFI of Roll Number 757092507 known as the Shawnessy Village shopping centre. The ARFI showed that the rental rates used by the complainant in his chart entitled "Additional Shawnessy Rental Comparisons" showed significant differences to what the Complainant listed in that report. The following was noted:
 - A 992 SF CRU space was listed by the Complainant at \$23.50 per SF, while the ARFI showed the same space at \$33.50 per SF.
 - A 1,201 SF CRU space was listed by the Complainant at \$28.00 per SF, while the ARFI showed the same space at \$30.50 per SF.
 - A 1,200 SF CRU space was listed by the Complainant at \$24.00 per SF, while the ARFI showed the same space at \$30.00 per SF.
 - A 2,555 SF CRU space was listed by the Complainant at \$23.50 per SF, while the ARFI showed the same space at \$29.00 per SF.
- Stated that all the business assessment comparables for CRU spaces between 2,501 and 6,000 SF, as provided by the Complainant, are assessed at a rate of \$26.00 per SF for property.

The Respondent concluded his analysis by indicating that the assessment rates applied to the

subject's CRU spaces are fairly and equitably assessed as follows:

- "CRU 0 – 1000 SF" space at a rate of \$30.00 per SF.
- "CRU 1000 - 2500 SF" space at a rate of \$28.00 per SF.
- "CRU 2501 - 6000 SF" space at a rate of \$26.00 per SF.

Decision: Issue 2

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

- The CARB finds the following with respect to the CRU spaces when combining the evidence submitted by both parties:
 - For CRU spaces of less than 1,001 SF.
 - The CARB reviewed the evidence supplied by both parties in this category with a correction as supplied by the Respondent to the Complainant's evidence. The Complainant's lease rate comparables ranged from \$24.00 to \$33.50 per SF for six properties including four from the subject. The most current leases were on the upper end of this range. The Respondent's did not offer any lease rate comparables in this space category. The most recent lease with a likely lease start date of April, 2008, was a correction to the Complainant's evidence that was supplied by the Respondent, and had a lease rate of \$33.50. It is the opinion of the CARB that there is not enough evidence to support the requested assessment rate reduction to \$25.00 per SF. In fact, the evidence presented tends to support the current assessment rate in this space category and therefore the assessment rate of \$30.00 is confirmed.
 - For CRU spaces between 1000 to 2500 SF.
 - The CARB reviewed the evidence supplied by both parties in this category with corrections as supplied by the Respondent to the Complainant's evidence. The Complainant's lease rate comparables ranged from \$23.50 to \$30.50 per SF for three properties submitted with lease start dates within one year of the valuation date of July 1, 2009. The Respondent's lease rate comparables ranged from \$17.00 to \$40.00 per SF for five properties submitted with lease start dates within one year of the valuation date of July 1, 2009. In combining these lease rate comparables, as submitted by both parties, a median of \$31.75 is derived. The evidence submitted when corrected and restricted to lease start dates within one year of the valuation date, do not support the requested assessment rate reduction to \$25.00 per SF and therefore the assessment rate of \$28.00 is confirmed.
 - For CRU spaces between 2501 to 6000 SF.
 - The CARB reviewed the evidence supplied by both parties in this category. The Complainant's lease rate comparables ranged from \$23.00 to \$28.00 per SF for nine properties submitted with lease start dates within one year of the valuation date of July 1, 2009. The Respondent's lease rate comparables ranged from \$27.00 to \$28.00 per SF for three properties submitted with lease start dates within one year of the valuation date of July 1, 2009. In combining these lease rate comparables, as submitted by both parties, a median of \$24.61 is derived. It is the opinion of the CARB that there is not enough evidence to support the requested assessment rate reduction to \$24.00 per SF and therefore the assessment rate of \$26.00 is confirmed.

Board's Decision:

The Board revises the assessment to \$27,320,000.

DATED AT THE CITY OF CALGARY THIS 9 DAY OF December 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.*