

**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: 757117809

LOCATION ADDRESS: 303 SHAWVILLE BV SE

HEARING NUMBER: 59861

ASSESSMENT: \$ 20,860,000

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 known as Shawnessy Towne Centre is part of the Shawnessy shopping or "power" centre located in SE Calgary. The property is a multi-building complex, including a Wendy's and Tim Horton's, with a net rentable area of approximately 69,111 square feet (SF). The buildings are situated on an assessable land area of approximately 265,770 SF.

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

- "Bank" space of 4,950 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "CRU 1001 - 2500 SF" space of 1,174 SF is assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
- "CRU 2501 - 6000 SF" space of 15,570 SF is assessed at a rate of \$26.00 per SF with a vacancy rate of 2%.
- "CRU 6001+ SF" space of 35,954 SF is assessed at a rate of \$21.00 per SF with a vacancy rate of 2%.
- "Office" space of 6,008 SF is assessed at a rate of \$22.00 per SF with a vacancy rate of 2%.
- "Restaurant Fast Food" space of 5,455 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 rental rate applied to the CRU 1000-2500 within the subject property should be \$25.
11. The assessed rental rate applied to the CRU 2501-6000 within the subject property should be \$24.
12. The Big Box assessed rental rate is incorrect and should be no higher than \$15 per SF.
13. The Bank area assessed rental rate is incorrect and should be no higher than \$28 per SF.
14. The municipality has neither correctly, nor equitably, calculated and provided the correct allocation of space for this particular property as identified by the annual Rent Roll or its physical condition as a property as of December 31..

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

1. The assessed rates applied to the CRU and office space of the subject are neither fair nor equitable.

Complainant's Requested Value:

\$15,330,000 on the complaint form revised to \$19,180,000 at this hearing.

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

ISSUE 1: The assessed rates applied to the CRU and office space of the subject are neither fair nor equitable.

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 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
 - Three CRU spaces of 6000+ SF had a median rental rate of \$17.25 per SF
 - Three 2nd floor Office spaces had a median rental rate of \$18.00 per SF
- 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:

- 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 275 Shawville Blvd. SE. The rent roll summary provided the following information:
 - 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. Three were of the comparable properties were of comparable size to the subject' CRU space of 6000+ SF. The range of rental rates was from \$22.00 per SF to \$42.00 per SF with a median of \$31.00 per SF. Two of the comparable properties had a CRU space between 2501 to 6000 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, all showing a business assessment rate of \$24.00.
- Two City of Calgary "2010 Business Assessment Comparable Reports" of twelve CRU spaces over 6,000 SF, located along 130 AV SE, all showing a business assessment rate of \$19.00.
- Property assessments of six comparable shopping centres with office space assessment rates ranging from \$14.00 per SF to \$18.00 per SF.

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

- "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.
- "CRU > 6000 SF" space at a rate of \$19.00 per SF.
- "Office" space at a rate of \$18.00 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 of a comparable property located at 275 Shawville Blvd. SE 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.
- 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.
- Stated that all the business assessment comparables for CRU over 6,000 SF, as provided by the Complainant, are assessed at a rate of \$21.00 per SF for property.

- Provided a chart indicating that all the office space comparables used by the Complainant are retail “strip” or neighborhood shopping centres and are therefore not comparable to the subject which is part of a power centre.
- An “Income Approach Calculator” redistributing the second floor office space to CRU space as outlined below. The resulting reallocation of space derived a revised assessment value for the subject of \$21,250,000 with the following changes to the original assessment:
 - “CRU 1001 - 2500 SF” space of 4,220 SF was assessed at a rate of \$28.00 per SF with a vacancy rate of 2%.
 - “CRU 2501 - 6000 SF” space of 18,532 SF was assessed at a rate of \$26.00 per SF with a vacancy rate of 2%.
 - “Office” space was deleted.

The Respondent concluded his analysis by indicating that the assessment rates applied to the subject's CRU and office spaces are fairly and equitable assessed as follows:

- “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.
- “CRU > 6000 SF” space at a rate of \$21.00 per SF.
- “Office” space originally at a rate of \$22.00 per SF would be deleted under the reallocation of 2nd floor office space to CRU space.

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 between 1000 to 2500 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 \$23.50 to \$28.00 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 \$30.50 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.

- For CRU spaces > than 6000 SF.
 - The CARB reviewed the evidence supplied by both parties in this category. The subject's leases in this space category were dated and not relied on. The Complainant's three business lease rate comparables ranged from \$22.00 to \$42.00 per SF for leases dated January, 2008 to January, 2009. The median rate of these three properties was \$31.00 per SF. The Respondent's did not offer any lease rate comparables in this space category. It is the opinion of the CARB that there is not enough evidence to support the requested assessment rate reduction to \$19.00 per SF and therefore the assessment rate of \$21.00 is confirmed.
- For Office Space.
 - The CARB finds that the office space assessment comparables submitted by the Complainant are of strip and neighborhood shopping centres and are likely not comparable to the subject which is part of a power centre. Further, the subject's lease rates in this space category are dated, with leases negotiated in 2002 and earlier, and therefore may not be reflective of the current market. It is the opinion of the CARB that there is not enough evidence to support the requested assessment rate reduction to \$18.00 per SF and therefore the assessment rate of \$22.00 is confirmed.
 - The CARB also finds that the Respondents request to reallocate 2nd floor office space to CRU space is not substantiated by the evidence. The Respondent provided no evidence that the 2nd floor office spaces needed to be reclassified as CRU space, nor did he provide any evidence to substantiate a higher assessment rate for second floor office space. Therefore the request by the Respondent to reclassify 2nd floor office space to CRU space is denied.

Board's Decision:

The Board confirms the assessment at \$20,860,000.

DATED AT THE CITY OF CALGARY THIS 6 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.*