

**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, Revised Statutes of Alberta 2000 (the Act).

between:

***Northland Village Mall Holdings Inc. (as represented by Altus Group Limited),
COMPLAINANT***

and

The City Of Calgary, RESPONDENT

before:

***B. Horrocks, PRESIDING OFFICER
T. Usselman, MEMBER
R. Roy, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	019123009
LOCATION ADDRESS:	5615 NORTHLAND DR NW
HEARING NUMBER:	64734
ASSESSMENT:	\$2,690,000

This complaint was heard on the 5th day of Aug., 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- Mr. B. Neeson (Altus Group Limited)

Appeared on behalf of the Respondent:

- Mr. G. Good

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

There were no concerns with the composition of the Board.

There were no preliminary matters. The merit hearing proceeded.

Property Description:

The subject property is a 1.24 acre parcel located in the Brentwood Community in NW Calgary. The site contains a 5,975 sq. ft. standalone Restaurant/Dining Lounge commonly referred to as the Cheesecake Cafe. The building was constructed in 1977 and is considered to be of A+ quality.

Issues:

The Assessment Review Board Complaint Form contained 4 Grounds For Appeal, but at the start of the hearing, the Complainant advised that there was only one outstanding issue, namely: the assessed rental rate.

Complainant's Requested Value: \$2,170,000 (Complaint Form)
\$2,020,000 (Hearing)

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

Issue Rent rate

The Complainant's Disclosure is labelled C-1.

The Complainant advised that the previous year's assessment had been based on a Market Net Rental Rate of \$30.00 / sq. ft. and a Capitalization rate of 8.00% whereas the current assessment is based on a Market Net Rental Rate of \$37.00/ sq. ft. and a Capitalization rate of 7.5%. The Complainant, at page 26, provided a list of 17 freestanding restaurants with lease start dates ranging from June 2008 to June 2010, noting the lease rates ranged from a low of \$23.00 / sq. ft. to a high of \$46.00 / sq. ft. with a median of \$31.50 / sq. ft. He suggested that the "Met Grill" on Stephen Ave. Mall with a lease rate of \$43.00 / sq. ft. and the "Humpty's Family Restaurant " in the Westhills Power Centre with a lease rate of \$46.00 / sq. ft. were anomalies.

The Complainant at pages 31 thru 63 provided descriptions and pictures of 12 standalone and pad restaurant equity comparables from throughout the City, noting the majority had Market Net Rental Rates of \$28.00 / sq. ft. with some as low as \$24.00 / sq. ft. in support of his request for an assessed Market Net Rental Rate of \$28.00 / sq. ft.

The Respondent's Disclosure is labelled R-1.

The Respondent, at pages 28 thru 30, provided 3 sales of comparable restaurants with sale prices of \$490.00, \$490.55, and \$425.00 / sq. ft. He noted the assessment for the subject was for \$450.00 / sq. ft.

The Respondent, at page 31, provided 3 Restaurant Equity Comparables, including the subject, noting the assessed Market Net Rental Rate was \$37.00 / sq. ft.

The Respondent, at page 32, provided 5 Restaurant Lease Comparables in the NW, noting the 3 most current net leases were for \$34.00, \$34.00 and \$45.90 / sq. ft.

The Respondent, at page 50, provided the ARFI for the subject, noting the lease was renewed on August 1, 2010 for a 5 year term at \$44.35 / sq. ft.

The Board finds the evidence of the Respondent more compelling and supportive of the Market Net Rental Rate assessed of \$37.00 / sq. ft.

Board's Decision:

The 2011 assessment is confirmed at \$2,690,000.

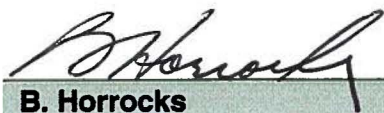
Reasons

The Complainant failed to present the lease for the subject, or an explanation of the breakdown of the gross lease which would assist the Board to determine the Net lease rate for comparison purposes.

The Complainant's equity comparables were not A+ quality restaurants. They were a mixture of types and classes. The complainant did not show how they were similar to the subject.

The subject is a freestanding restaurant on its own title and is not part of a Neighbourhood Shopping Centre and does not receive the same parameters as a Neighbourhood Shopping Centre.

DATED AT THE CITY OF CALGARY THIS 16 DAY OF August 2011.



B. Horrocks
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

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.*