

**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:**

***Yiu Cheung Lee and Yiu Bing Lee  
(as represented by Altus Group Ltd.), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***L. Wood, PRESIDING OFFICER  
R. Roy, MEMBER  
T. Usselman, 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:

<b>ROLL NUMBER:</b>	<b>045098811</b>
<b>LOCATION ADDRESS:</b>	<b>1110 16 AV NW</b>
<b>HEARING NUMBER:</b>	<b>63749</b>
<b>ASSESSMENT:</b>	<b>\$1,940,000</b>

This complaint was heard on 11 day of August, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant:

- *Mr. B. Neeson* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *Mr. H. Yau* *Assessor, City of Calgary*

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

The parties requested that their arguments be carried forward from file #63750 (CARB #1777-2011-P) as it is applicable to this case as well. The Board agreed with the parties' request.

**Property Description:**

The subject property is known as the Earl's Restaurant, located in the community of Capitol Hill. The building is 5,335 sq. ft., constructed in 1972, and is situated on 0.27 acres of land. The land use designation is Commercial-Corridor 1.

**Issues:**

1. The assessed rental rate applied to the subject property's restaurant space should be reduced from \$30.00 psf to \$28.00 psf.

**Complainant's Requested Value:** \$1,810,000

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

1. The assessed rental rate applied to the subject property's restaurant space should be reduced from \$30.00 psf to \$28.00 psf.

The Complainant submitted 11 lease comparables from restaurants located throughout the City of Calgary (Exhibit C1 page 22). The leases had commenced between January 2009 to June 2010 for areas between 4,140 sq. ft. – 6,632 sq. ft. and the rates ranged between \$23.00 psf - \$35.00 psf. The Complainant indicated the median was \$29.00 psf for the 11 leases. Based solely on the 2010 leases, the median was \$28.00 psf.

The Complainant submitted several equity comparables that ranged between \$22.00 to \$28.00 psf in support of the \$28.00 psf rate (Exhibit C1 pages 23 - 58).

The Respondent submitted that restaurant dining lounges and restaurant fast food properties are assessed at the same \$30.00 psf rate. He questioned why the Complainant did not include the Arby's restaurant (file #63750) in his analysis as the properties are both located in the same area.

The Respondent submitted 4 lease comparables in excess of the \$30.00 psf rate (Exhibit R1 page 28). The leases had commenced between January 2009 and December 2010 for restaurant areas between 935 - 10,983 sq. ft. at rates between \$30.00 psf to \$36.32 psf and a median of \$33.00 psf.

The Respondent submitted the Assessment Request for Information (ARFI) for the subject property which reflected a 2007 lease at a rate of \$45.00 psf for a 20 year term (Exhibit R1 pages 53 - 55). He also submitted the 2008 extension which reflected the \$45.00 psf rate (Exhibit R1 page 56). He indicated this is not a typical rental rate. Both ARFIs referred to two years of base rent free.

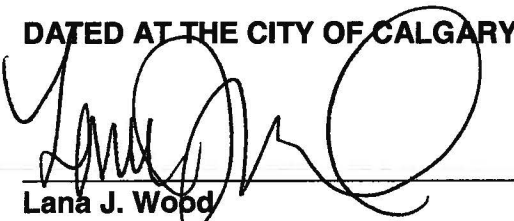
The Respondent submitted several equity comparables in support of the \$30.00 rate (Exhibit R1 pages 29 & 30).

The Board finds the Complainant's comparables were not similar to the subject property. The comparables were restaurant pads and CRU spaces as opposed to the subject property which is a freestanding building. The Board also noted none of the comparables were located along 16 Av NW like the subject property. The Board finds the Complainant's market evidence supported the \$30.00 assessed rate that was applied to the subject property. As such, the Complainant failed to convince the Board that a change in the assessment was warranted.

**Board's Decision:**

The decision of the Board is to confirm the 2011 assessment for the subject property at \$1,940,000.

DATED AT THE CITY OF CALGARY THIS 5<sup>th</sup> DAY OF OCTOBER 2011.

  
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Lana J. Wood  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>EXHIBIT NO.</b>	<b>ITEM</b>
1. C1	Complainant's Submission
2. R1	Respondent's Submission

*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.*