

**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
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:	045098886
LOCATION ADDRESS:	1130 16 AV NW
HEARING NUMBER:	63750
ASSESSMENT:	\$1,300,000

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:

There were no procedural or jurisdictional matters raised by the parties during the hearing.

Property Description:

The subject property is known as the Arby's Restaurant located in Capitol Hill. This is a freestanding restaurant with a building comprised of 3,583 sq. ft. that was constructed in 1984. It was assessed as A2 quality. The building is situated on 0.48 acres of land. The land use designation is Commercial-Corridor 1 and Multi Residential Contextual Medium Profile.

The only issue before the Board is the assessed rate that was applied to the restaurant space.

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: \$1,210,000

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 the subject property's Assessment Request for Information which indicated a lease rate of \$26.68 psf for a 10 year term which commenced in March 2001 (Exhibit C1 page 20). The Complainant presented several fast food equity comparables in support of the requested rate of \$28.00 psf (Exhibit C1 pages 23-39).

The Respondent submitted a post facto lease renewal for the subject property of \$31.00 psf, dated March 2011 for a five year term (escalating on an annual basis of \$1.00 psf). The Respondent stated this was an indication that the property is generating a higher income than \$28.00 psf (Exhibit R1 page 59). The Respondent included 3 restaurant sales, with the same land use designation as the subject, which sold for \$425- \$490 psf in 2009-2010 (Exhibit R1 pages 31-33). The subject property was assessed at \$363 psf. The Respondent also presented several restaurant equity comparables (which he was unable to explain) in support the \$30.00

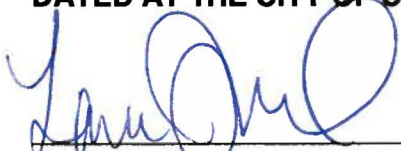
psf rate (Exhibit R1 pages 25 & 26).

The Board placed little weight on the equity comparables presented by the Complainant. None of the comparables were freestanding buildings, like the subject property, and none were located along 16 Ave NW as the subject property. As such, the Complainant failed to convince the Board that a change in the assessment was warranted based on equity.

Board's Decision:

The decision of the Board is to confirm the 2011 assessment for the subject property at \$1,300,000.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF SEPTEMBER 2011.



Lana J. Wood
Presiding Officer

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

EXHIBIT NO.	ITEM
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.*