

**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:

***Richland Investments Inc.,  
Yiu-Cheung Lee, Yiu-Leung Lee,  
Yiu-Bing Lee, Yiu-Tung Lee, and Yiu-Wing Lee  
(as represented by Altus Group Limited), COMPLAINANT***

and

***The City of Calgary, RESPONDENT***

before:

***J. Dawson, PRESIDING OFFICER  
M. Grace, MEMBER  
J. Pratt, MEMBER***

This is a complaint to the Calgary Composite Assessment Review Board [*CARB*] in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>201079290</b>
<b>LOCATION ADDRESS:</b>	<b>2805 32 Avenue NE</b>
<b>LEGAL DESCRIPTION:</b>	<b>Plan 8111946; Block 6; Lots 1-Multiple</b>
<b>HEARING NUMBER:</b>	<b>66666</b>
<b>ASSESSMENT:</b>	<b>\$ 13,460,000</b>

- [1] This complaint was heard on the 15 day of October, 2012 at the office of the Assessment Review Board [ARB] located at Floor Number 3, 1212 31 Avenue NE, Calgary, Alberta, Boardroom 8.
- [2] Appeared on behalf of the Complainant:
- K. Fong                      Agent, Altus Group Limited
- [3] Appeared on behalf of the Respondent:
- R. Farkas                      Assessor, City of Calgary

### **SECTION A: Preliminary, Procedural or Jurisdictional Issues:**

- [4] No procedural or jurisdictional matters were raised.

### **SECTION B: Issues of Merit**

#### **Property Description:**

- [5] Constructed between 1984 and 2000, the subject – 2805 32 Avenue NE, is comprised of three retail buildings located on 32 Avenue at the corner of 27 Street NE in a community known as Sunridge.
- [6] The Respondent prepared the assessment showing 54,673 square feet: 1) The first building was constructed in 1984, is a 6,969 square foot restaurant space graded as an 'A2' quality, and is assessed entirely as restaurant dining lounge. 2) The second building was constructed in 1985, is a 5,985 square foot restaurant space graded as an 'A2' quality, and is assessed 4,138 square feet as restaurant dining lounge with 1,847 square feet of basement storage. And 3) The third building was constructed in 2000, is a 41,719 square foot retail space graded as an 'A2' quality, and is assessed 40,048 square feet as big box retail with 1,671 square feet of mezzanine space. The site has an area of 206,870 square feet.

#### **Matters and Issues:**

- [7] The Complainant identified two matters on the complaint form:
- Matter #3 -        an assessment amount*
  - Matter #4 -        an assessment class*
- [8] Following the hearing, the Board met and discerned that this is the relevant question that needed to be answered within this decision:
1. *Is the assessed rental rate correct for the subject's retail and restaurant spaces?*

**Complainant's Requested Value:**

- \$11,720,000 on complaint form
- \$11,860,000 in disclosure document and confirmed at hearing as the request

**Board's Decision in Respect of Each Matter or Issue:*****Matter #3 - an assessment amount*****Question 1 Is the assessed rental rate correct for the subject's retail and restaurant spaces?*****Complainant's position***

- [9] The Complainant argued that the assessed rate of \$17 per square foot is too high for the retail space and should be \$15, while the assessed rate of \$33 per square foot is too high for the restaurant space and should be \$26.
- [10] The Complainant reviewed the details of the subject, including; 2012 Property Assessment Notice, Property Assessment Public Record, Non-Residential Properties – Income Approach Valuation, maps, and photos. (C1 pp. 85-100)
- [11] The Complainant presented a report entitled; 'Lease Comparables Big Box 14,000 – 40,000 Square Feet'. The seven leases ranged from June 2009 through December 2011. The report conclusion is a median of \$15.49 per square foot with a mean of \$14.21 per square foot. (C1 p. 103)
- [12] The Complainant provided a rent roll for the subject indicating that the restaurant space, during the valuation year, achieved rental rates of \$30 per square foot, while the retail space is achieving \$14.50 per square foot on average. (C1 p. 105)
- [13] The Complainant provided a Board decision regarding the Business assessment of one of the retail spaces. The decision LARB 1290/2012-B lowered the business assessment from \$17 per square foot to \$13 per square foot. (C1 pp. 106-109)
- [14] The Complainant provided ten equity comparable properties (twelve restaurants) from the general vicinity indicating \$26 per square foot for nine properties and \$17 per square foot for one property. The Complainant argued that \$26 is more typical for restaurants similar to the subject. (C1 pp. 111-133)
- [15] The Complainant submitted a document entitled; '2012 Property Assessment – Assessment Range of Key Factors, Components and Variables – 2012 Retail'. That document speaks to four key factors, listing location as the number one item and showing freestanding properties separate and distinctive from five types of shopping centres; regional, power, community, neighbourhood, and strip. (C1 pp. 137)
- [16] The Complainant concluded with a requested assessment of \$11,860,000 using \$15 per square

foot for the retail space and \$29 per square foot for the restaurant space. When asked why they're requesting \$29 per square foot for the restaurant space when the equity evidence supports \$26 per square foot, the Complainant indicated that \$29 is fair based on actual performance and location. (C1 p. 135)

### ***Respondent's position***

- [17] The Respondent asserted that the assessed rate of \$17 per square foot for retail and \$33 per square foot for restaurant is correct and equitable. (R1 p. 2)
- [18] The Respondent reviewed the subject details; maps, photos, and Non-Residential Properties – Income Approach Valuation. (R1 pp. 4-11)
- [19] The Respondent presented their report entitled; '2012 Business Equity Comparables 14,001 – 40,000 square feet'. The one-hundred-and-one comparables ranged in size from 14,058 square feet to 39,947 square feet with no median and mean reported. All one-hundred-and-one comparables are assessed at \$17 per square foot. (R1 pp. 12-14)
- [20] The Respondent provided a document entitled; '2012 Lease Comparables – Big Box 14,000 – 40,000 square feet, A & B Classes'. The document provided illustrated that comparable leases arrived at a mean of \$17.36 and a median of \$17. (R1 p. 15)
- [21] The Respondent presented a report entitled; 'Complainant Lease Comparables'. The seven leases had the same information provided by the Complainant except this report included the quality grading that ranged from a 'C' to an A2'. The report did not have a conclusion; however, was intended to show that the Complainant was not comparing similar quality graded properties. (R1 p. 16)
- [22] The Respondent provided a document entitled; '2012 Restaurant Rates' to indicate that all restaurants city-wide have been stratified by quality grading except those located in power centres. The rates shown indicate 'A+' at \$36 per square foot, 'A' at \$33 per square foot, 'B' at \$26 per square foot, 'C' and 'D' at \$17 per square foot and power centres at \$33 per square foot. (R1 p. 17)
- [23] The Respondent reviewed equity comparables from quality grades 'A' to show that all similar quality graded restaurants are assessed in the same manner. (R1 p. 20)
- [24] The Respondent relisted the twelve comparables presented by the Complainant to indicate that eleven are quality graded between 'B-' and 'B+' while one is graded as a 'C+'. The subject restaurants are graded as 'A2'. (R1 p. 21)
- [25] The Respondent provided two Board decisions regarding the Business assessment of three restaurant spaces. The decisions LARB 0972/2012-B and LARB 0973/2012-B confirmed their business assessments at \$26 per square foot. (R1 pp. 32-40)
- [26] The Respondent concluded with a statement that the assessment of the subject is correct, fair and equitable as a big box store, and the leases support the assessment. (R1 p. 43)

**Board's findings**

- [27] The Board found the one-hundred-and-one comparables to be somewhat problematic in defence of the assessment. There is no mean or median for the Board to ascertain if the sizes demonstrated are comparable to the subject. In addition there seems to be no analysis or regard provided to location. The determinate factor is size and use. If a retail property is between 14,000 and 40,000 square feet in Calgary it is assessed the same \$17 rate regardless if it is located at the busiest power centre in the city or buried deep into an industrial park. Common sense would dictate that these scenarios are not equal; however, the Respondent's assessment finds that they are.
- [28] The Board finds the subject is a small strip retail location typically deemed freestanding set far back from 32 Avenue – not a typical big box store located within a power centre. The Respondent failed to demonstrate how the subject is comparable to the typical big box store within the report.
- [29] The Board finds from the actual leases within the subject indicate a much lower financial performance than stratified by the Respondent indicating that the subject's retail location is not similar to a typical big box location. Analysing the three leases of freestanding retail locations during the valuation period only; the mean is \$14.09 per square foot and the median is \$13.25 per square foot, and the subject's own performance with an average of \$14.50, support the request from the Complainant of \$15 per square foot.
- [30] The Board is persuaded by the equity argument of the Complainant for the restaurant space; the eleven equity comparables at \$26 per square foot seem very comparable in terms of appearance and location. The Complainant requested an assessment of \$29 per square foot because their actual financial performance is greater than the typical. The Board finds the \$29 per square foot rental rate for the restaurant space fair and equitable. The Board is not persuaded that the ten comparables presented by the Respondent at \$33 per square foot were better comparables than the eleven presented by the Complainant.

**Matter #4 - an assessment class**

- [31] The Board did not hear any evidence requesting a change in an assessment class from its current non-residential designation.

**Board's Decision:**

- [32] After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a value of \$11,860,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 18 DAY OF December 2012.

  
J. Dawson, Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
1.	C1 Complainant Disclosure – 160 pages
2.	R1 Respondent Disclosure – 43 pages

*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.*

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Centre	Income Approach	Market Rent