

**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:

***Avenida Place Ltd.
(as represented by Altus Group Limited), COMPLAINANT***

and

The City of Calgary, RESPONDENT

before:

***J. Dawson, PRESIDING OFFICER
H. Ang, MEMBER
P. McKenna, 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:

ROLL NUMBER:	141119800
LOCATION ADDRESS:	12445 Lake Fraser Drive SE
LEGAL DESCRIPTION:	Plan 8811251; Block 1
HEARING NUMBER:	67593
ASSESSMENT:	\$ 24,930,000

- [1] This complaint was heard on the 9 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 10.
- [2] Appeared on behalf of the Complainant:
- K. Fong Agent, Altus Group
 - D. Main Agent, Altus Group
- [3] Appeared on behalf of the Respondent:
- I. McDermott Assessor, City of Calgary

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

- [4] During questioning of the Complainant, the Respondent requested that page 23 and the top portion of page 24 be redacted by the Board as it was not properly disclosed as required through Matters Relating to Assessment Complaints [MRAC] regulation section 9(3); "*A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor.*" The Act section 295(1) reads; "*A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.*" The information contained on page 23 and the top of 24 was requested April 8, 2011 through an Assessment Request for Information [ARFI] that was responded to by the Complainant and received by the Respondent May 6, 2011. (R1 pp. 22-36)
- [5] **The Board redacted page 23 and the top portion of page 24 from the disclosure document of the Complainant. The Board reminds both parties, that requests of this nature are to be identified at the beginning of the hearing before the Board hears the evidence requested to be redacted.**
- [6] No additional preliminary, procedural, or jurisdictional matters were identified.

SECTION B: Issues of Merit

Property Description:

- [7] Constructed in 1988, the subject – 12445 Lake Fraser Drive SE, is comprised of seven buildings referred to as a Retail Strip Shopping Centre. The property is located along Macleod Trail at Lake Fraser Gate SE in a community known as Lake Bonavista.
- [8] The Respondent prepared the assessment showing 91,329 square feet of retail and automotive related space graded as an 'A-' quality. The site has an area of 412,271 square feet.
- [9] A separate assessment is associated with this property representing an unknown area. This space is exempt from taxation therefore only the net space is under complaint. The value related to the exempt space is \$2,200,000.

Matters and Issues:

[10] The Complainant identified two matters on the complaint form:

Matter #3 - an assessment amount
Matter #4 - an assessment class

[11] Following the hearing, the Board met and discerned that these are the relevant questions which needed to be answered within this decision:

1. *Is the subject assessment correct with the applied market rental rates?*

Complainant's Requested Value:

- \$21,440,000 on complaint form
- \$23,050,000 in disclosure document
- \$22,800,000 at hearing confirmed as the request

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

Matter #3 - an assessment amount

Question 1 *Is the subject assessment correct with the applied market rental rates?*

Complainant's position

[12] The Complainant presented that three of the rental rate stratifications are incorrect resulting an incorrect total assessment value: (C1 p. 3)

1. Commercial Retail Unit [CRU] space between 1,001 and 2,500 square feet has a rental rate value of \$25 assessed and it should be \$22; and
2. CRU space between 2,501 and 6,000 square feet has a rental rate value of \$23 assessed and it should be \$20.50.

[13] The Complainant reviewed the subject details including; 2012 Assessment Notice, Non-Residential Properties – Income Approach Valuation, maps, photos, subject rental roll and Requested 2012 Shopping Centre Assessment Summary. (C1 pp. 10-22 and bottom of 24-26)

[14] The Complainant concluded with their requested assessment of \$22,800,000, indicating that location provides better comparables than class. (C1 p. 26)

Respondent's position

[15] The Respondent began their presentation with the statement that the subject is a strip centre while the Complainant has provided a rental roll and two rental rate analyses of neighbourhood shopping centres. (R1 p. 3)

- [16] The Respondent indicated that the Complainant wanted the rental rate reductions while accepting other inputs including; capitalisation rate, operating costs, shortfall, vacancy, including the market rental rates applied to the remaining space. Further, the Respondent indicated that there are Board decisions provided regarding the request to change one input of the income valuation formula without consideration of the impacts on other inputs. (R1 p. 3 and 86-101)
- [17] The Respondent reviewed the subject details referred to by the Complainant as well as the Property Assessment Summary Notice, and Assessment Request for Information [ARFI]. (R1 pp. 5-36)
- [18] The Respondent provided analysis of lease comparables for CRU space 1,001 to 2,500 square feet deriving a median of \$25. (R1 pp. 38-44)
- [19] The Respondent provided analysis of lease comparables for CRU space 2,501 to 6,000 square feet deriving a median of \$23. (R1 pp. 45-49)
- [20] The Respondent concluded that the assessment is correct, fair and equitable and requested a confirmation.

Board's findings

- [21] The Board found the comparables provided by the Respondent in the 1,001 to 2,500 CRU space far superior to that of the Complainant, because the comparables include several leases within the subject and nearby properties. The evidence for the 2,501 to 6,000 CRU space, provided by the Respondent, also includes several leases from within the subject and nearby properties; whereas, the evidence from the Complainant only included leases from within the subject. The finds the subject is not a market in and of itself, and finds the comparables from the Respondent to be compelling evidence to support the assessment.
- [22] The Board agreed, as pointed out by the Respondent, changing one input without considering of other inputs is problematic. In CARB 1331/2011-P W. Kipp states on the final page near the end of the first paragraph; *"The Complainant cannot simply adopt some input factors used by the Respondent without demonstrating that those inputs would be the ones the market would apply to properties where office rental rate was different than that used in the Respondent's analysis."*
- [23] **The Board considered the evidence and testimony before it, finding the assessment is correct, fair and equitable.**

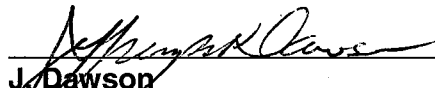
Matter #4 - an assessment class

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

Board's Decision:

[25] The Board determined that the subject's assessment is correct at a value of \$24,930,000 which reflects market value and is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 17 DAY OF December 2012.



J. Dawson
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.*

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Plaza	Income Approach	Net Market Rent