

**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:**

***PADOS HOLDINGS LTD., COMPLAINANT  
(Represented by ALTUS GROUP LTD.)***

**and**

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

**before:**

***Board Chair P. COLGATE  
Board Member Y. NESRY  
Board Member D. POLLARD***

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: 112105408**

**LOCATION ADDRESS: 7004 MACLEOD TRAIL SE**

**HEARING NUMBER: 63110**

**ASSESSMENT: \$5,220,000.00**

This complaint was heard on 18 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *Kam Fong, Altus Group Ltd. – Representing Pados Holdings Ltd.*

Appeared on behalf of the Respondent:

- *Margaret Byrne - Representing the City of Calgary*

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

The Board derives its authority to make this decision under Part 11 of the Municipal Government Act. The parties had no objections to the panel representing the Board as constituted to hear the matter. No jurisdictional or procedural matters were raised at the outset of the hearing, and the Board proceeded to hear the merits of the complaint.

**Property Description:**

The subject property is a retail strip centre located at 7004 Macleod Trail SE. The centre is comprised of 22,665 square feet, made up of commercial retail space, office space and a restaurant. The subject site is a 1.54 acres parcel zoned Commercial.

**Issue:**

1. What are the correct rental rates to be applied to the Commercial Retail Units (CRU's) and office space?
2. What is the correct vacancy rate to be applied to the subject property?

**Complainant's Requested Value:** \$4,460,000.00

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

Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

The Board reviewed evidence specific to each issue.

**ISSUE 1:** What are the correct rental rates to be applied to the Commercial Rental Units (CRU's) and office space?

Complainant's Evidence:

The Complainant requested changes to the CRU and office rental rates for the subject property as outlined below –

	Current Rental Rate	Requested Rental Rate
CRU 0-1,000 sq. ft.	\$19.00	\$15.00
CRU 1,001-2,500 sq. ft.	\$19.00	\$15.00
CRU 2,501-6,000 sq. ft.	\$17.00	\$19.00
Office	\$15.00	\$12.00

The Complainant submitted the December 2009 Rent Roll for the subject property to show the leases current at that time. (c1, Pg. 24)

In the CRU 0-1,000 square foot range there is only one lease, signed October 2006, for \$14.50 per square foot.

In the CRU 1,001-2,500 square foot range the six leases have commencement dates from December of 2005 to the most recent commencement date of November 2008. The lease commencing in 2008 has rent rate of \$15.00

In the CRU 2,501 – 6,000 square foot range there is only one lease, signed January 2006, for \$20.00 per square foot.

The office space in the subject property rents for \$10.50 per square foot, based upon a lease commencing December 2006.

The Complainant put forward the position rents are higher for space to the front of the strip centre, closer to Macleod Trail and decreasing the further back in the complex one goes.

The Complainant submitted the April 2009 Tenant Rent Roll for 7500 Macleod Trail. (C1, Pg. 25)

In the CRU 0-1,000 square foot range there are no leases.

In the CRU 1,001-2,500 square foot range there are five leases commencing with rent rates of \$14.00 and \$25.00

In the CRU 2,501 – 6,000 square foot range there is only one lease for \$22.00 per square foot.

The office space in the comparable property showed five leases with rent rates ranging from \$9.00 to \$14.00 per square foot.

#### Respondent's Evidence:

The Respondent submitted three 2011 Business Lease Comparable Reports. (R1, Pg. 21-23)

The first report provided comparable leases for CRU spaces less than 1000 square feet. Leases ranged from \$18.00 to \$21.00 per square foot, commencing in 2009 and 2010.

The second report presented leases for CRU spaces greater than 1,000 and less than 2,500 square feet. Leases ranged from 18.00 to 21.00, commencing in 2009. Two leases were located on Macleod Trail, with one being located in the Complainant's comparable complex – 7500 Macleod Trail SE.

The third report addresses the office rate applied to the subject. Two leases from complexes on Macleod Trail show leases rates of \$14.00 and \$24.00.

### **Findings of the Board**

#### **Complainant's Submission:**

The Board found the leases in the subject, at first glance, supported the request for a reduced rental rate. However, the Board determined that the majority of the leases were dated and there was a lack of current rent information for the strip centre.

The Board found the leases specific to the complex may indicate a trend for this one property; however it is insufficient to justify the change to the assessed rental rates. The Municipal Government Act is clear that assessment must be based upon an estimate of the value of the fee simple estate in the property and must reflect typical market conditions. (Alberta Regulation 220/2004 Municipal Government Act - Matters Relating To Assessment and Taxation Regulation)

The leases found in the comparable strip centre – 7500 Macleod Trail – do not support the requested rates but rather the rent rates applied by The City of Calgary.

#### **Respondent's Submission:**

The Board found the evidence presented by the Respondent support the rent rates as applied by the City of Calgary.

### **ISSUE 2: What is the correct vacancy rate to be applied to the subject property?**

#### **Complainant's Evidence:**

Although the Complainant had changed the vacancy rate to 7.5% from the current 6.5% rate there was no market or equity evidence submitted in support of the change.

### **Findings of the Board**

Based upon the lack of evidence or testimonial evidence for the change, the decision of the Board was to confirm the vacancy rate.

**Board's Decision:**

Due to the lack of compelling market evidence the Board does not accept the request for altering the assessment as put forward by the Complainant.

The Board confirms the assessment of \$5,220,000.00

DATED AT THE CITY OF CALGARY THIS 9<sup>th</sup> DAY OF November 2011.

  
Philip Colgate  
Presiding Officer

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

<b>NO.</b>	<b>ITEM</b>
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.*

**FOR ADMINISTRATIVE USE**

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Strip Plaza	Income Approach	-Net Market Rent/Lease Rates -Vacancy Rate

**LEGISLATIVE REQUIREMENTS****MUNICIPAL GOVERNMENT ACT****Chapter M-26**

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

**Division 1****Preparation of Assessments****Preparing annual assessments**

**285** Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298. RSA 2000 cM-26 s285;2002 c19 s2

**289(2)** Each assessment must reflect (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property,

**ALBERTA REGULATION 220/2004****Municipal Government Act****MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION**

1(f) "assessment year" means the year prior to the taxation year;

**Part 1****Standards of Assessment****Mass appraisal**

**2** An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

**Valuation date**

**3** Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.