

**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-26.1, Section 460(4).

between:

Altus Group Ltd., *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

J. Noonan, *PRESIDING OFFICER*

J. O'Hearn, *MEMBER*

B. Jerchel, *MEMBER*

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	181056300
LOCATION ADDRESS:	8220 Centre St NE
HEARING NUMBER:	58961
ASSESSMENT: \$	\$27,170,000

This complaint was heard on the 8th day of June, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

K. Fong, *Agent, - Altus Group*

Appeared on behalf of the Respondent:

E. Lee, D. Zhao, *Assessors, The City of Calgary*

Property Description:

The subject is located at 8220 Centre St NE, Calgary. It is a neighbourhood shopping centre on 15.12 acres (658,666 sq.ft.) with rentable area of 135,692 sq.ft. The grocery store comprises 69,713 sq.ft., including a large storage area, staff rooms, coolers, etc. The site has two bank spaces attached to the main grocery building, an 8764 sq.ft. CRU space similarly attached, a detached video store (6500 sq.ft), detached liquor store (16,140 sq.ft), and a gas bar with a fast food restaurant attached. The assessed value is \$27,170,000.

Overview:

The subject property was previously a Beaver Lumber big box store, acquired by the current owner and converted to a grocery store and CRU space, with detached pads added later. Amongst other things, the CARB was asked to apply a lower "storage" rent rate to those areas excess to the needs of operating a grocery store. The Respondent applied to have the assessment increased to \$27,470,000 to account for a larger gas bar, while the Complainant's request was for a reduction to \$19,170,000.

Issues:

1. Should the excess storage space be assessed at a lower rate than the grocery area?
2. Should the vacancy allowances for grocery and CRU spaces be increased from 1% and 2% to 4% and 11%?
3. Should the CRU spaces greater than 6000 sq.ft. be assessed at a \$12 lease rate rather than \$16?
4. Should the bank spaces be assessed at \$25 lease rate rather than \$28?
5. Should the gas bar be increased from a PGI of \$45,000 to \$70,000 in isolation from consideration of the fast food store attached?

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

Issue 1: Excess Space

The Complainant argued that some 27,540 sq.ft. of the grocery space, currently assessed at a \$13 lease rate ought instead be assigned a storage rate of \$3. Although the space was being utilized by the owner-occupant for a variety of purposes, this was an atypical situation with far more storage space than normally found in a grocery store, resulting from the conversion from

hardware to grocery store.

The Respondent noted two other very large grocery stores, including the Anderson Safeway which is even larger than the subject, and assessed at a \$15 rate. As the complainant had not provided a breakdown as to how the space was being used, eg. office, warehouse, etc., the Respondent had not seen the need to further address this issue.

The CARB has some sympathy for the Complainant's argument but without a detailed breakdown of what are the current uses of this space, is unable to find a \$3 rate applicable, a rate usually reserved for basement storage. The Complainant mentioned in oral evidence that another former Beaver Lumber location had been converted to another retail use, and that an \$8 rate had been applied or decided for some of the excess space. The Board would have to find similarity to such a situation, and might so find in future, but is unable to do so with the facts as set out in this hearing.

Issue 2: Vacancy Allowance

The Complainant urged the CARB to view the vacancy allowance not in the isolation of a single year, but rather from the perspective of a long term investor who would anticipate vacancy over a much longer time frame. Over 10 years, the City's 1% anchor space allowance would anticipate vacancy of only 5 or 6 weeks, an unrealistically low number. Rather, a 4% allowance ought to be applied, in line with the allowance granted to numerous examples of big box free-standing stores, many of which functioned in concert with other developments in a manner similar to a neighbourhood shopping centre. For CRU space an allowance of 11% was advanced, supported by a full page vacancy study of similar developments but excluding anchor spaces. This study had been compiled by Altus over the previous year from rent roll information supplied by their clients, and produced a weighted average of 10.5% vacancy for CRU space. While a 5-6% vacancy might be expected over the longer term, if one averaged this 11% requested allowance with the previous 2 years allowances, a conservative number was still achieved.

The Respondent noted that in the Calgary market, shopping centre anchor grocery space was frequently owner-occupied, but where leases were in place their terms were for 20 years or more, and thus a 1% vacancy allowance for this type of space was justified. Big box stores are a different class of property. With regard to CRU vacancy, the City annually collects ARFIs which are returned from property owners over a short time period, and thus give a true snapshot of vacancy as opposed to all the vacancies that occurred over the year, no matter their duration. As well, the City found errors in the Complainant's study, such as vacancy that only occurred in 2010 – thus having no bearing on July 1, 2009 typicals – or instances where vacancy was owner-initiated to accommodate construction/renovation.

The Respondent presented a cap rate study of four neighbourhood/community shopping centres, three sales in 2009 and one in 2008. Using City typicals for rent rates, vacancy, operating shortfalls, etc. from those respective years, a median cap rate of 7¼% was calculated, as compared to an 8% cap rate used for July 1, 2009 assessed value. If one were to substitute the Complainant's vacancy allowances of 4% and 11% in this study, the median cap rate would drop to 6.39% or an implied 7% for assessment purposes.

The CARB found insufficient evidence from either party to justify a change to the 1% grocery anchor vacancy allowance. The Board also found the City's method of data collection superior to that advanced by the Complainant, giving a more reliable estimate of vacancy for CRU space, and so found insufficient reason to accept the requested 11% vacancy allowance for this space type.

Issue 3: CRU space > 6000 sq.ft.

The subject property has three CRU spaces measuring greater than 6000 sq.ft.: a 16,140 sq.ft. liquor store on its own pad, a 6500 sq.ft. video store also on its own pad, and an 8764 sq.ft. CRU space in the main structure occupied by a dollar store. The Complainant submitted that all these spaces should be assessed at a \$12 lease rate, not the \$16 applied, in recognition that a lease for the dollar store space had been renewed at \$12.84 per sq.ft.

The Respondent misunderstood the Complainant's documentation, thinking that a reduction was requested for the liquor store on account of its size, and so had prepared for that argument. To address the >6000 sq.ft. issue, The Respondent pointed out a larger 25,989 sq.ft. CRU space in the general area that had leased in 1996 for \$14 and observed that rents have increased since then.

The CARB was shown only the information about the single lease renewal at the subject dollar store in support of the requested reduction. The Board finds that a single lease is insufficient evidence of inequity or market value, and declines the requested decrease.

Issue 4: Bank rate

The subject contains two bank spaces measuring in total 10,791 sq.ft.

The Complainant showed the bank spaces achieved rents of \$22 and \$23. Six lease comparables plus one of the subject spaces showed an average rate of \$25, the request for the subject bank spaces.

The Respondent produced a list of NE and NW banks, including the two premises at the subject, all assessed at \$28, and the City's study of twenty-two bank leases showing a range of \$21 to \$58 and a median lease rate of \$28.58. The Respondent noted that its lease information dated from 2007-2009 while the Altus study presented 2005-2006 information with the exception of the 2008 renewal at the subject.

The CARB prefers the newer lease information from the Respondent and is satisfied that assessment equity has been achieved.

Issue 5: Gas bar

The Respondent requested an increase to the assessment as the gas bar cashier space was greater than 1000 sq.ft. and so the attributable PGI would increase to \$70,000 from \$45,000.

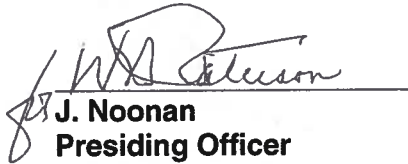
The Complainant maintained that should the gas bar space be increased, a deletion of the \$28 fast food restaurant space would also be required. The two facilities share the same space and are not physically divided.

The Board declined to alter the current assessment of this space, not having sufficient detail to justify the requested increase. The CARB found merit in the Complainant's argument that an increase to the gas bar would necessitate a decrease to the restaurant.

Board Decisions on the Issues:

The Board confirms the assessment of \$27,170,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF June 2010.


J. Noonan
Presiding Officer

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.*