

**CITY OF CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

BETWEEN:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

BEFORE:

J. Krysa, *PRESIDING OFFICER*

I. Zacharopoulos, *MEMBER*

H. Ang, *MEMBER*

A hearing was convened on July 19, 2010 in Boardroom 4, at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	030106009
LOCATION ADDRESS:	4440 – 44th Avenue NE
HEARING NUMBER:	59303
ASSESSMENT:	\$1,620,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 37,460 square foot (sq.ft.) parcel of land, improved with a 10,614 sq.ft. strip shopping centre and paved surface parking, constructed in 1978 and known as Whitehorn Plaza

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

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

PART C: MATTERS / ISSUES

The Complainant indicated the following matters in section 4 of the complaint form:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and stated he would be providing evidence and submissions only on matter number 3, an assessment amount. The Complainant set out 14 reasons for complaint in Section 5 of the Complaint form; at the commencement of the hearing, the Complainant stated only the following issue was in dispute:

Issue: Correct market value of subject, reflecting the subject's chronic vacancy

The Complainant submitted that the improvement should be awarded a 25% vacancy allowance to reflect an actual vacancy rate of 28.79% for over 3 years as at the valuation date. In support the Complainant provided the Board with a rent roll of the subject property indicating that CRU's # 2 and 3, totaling 3,056 square feet (sq.ft.) were vacated by the tenant, Canada Post on July 31, 2006. An income proforma indicating the Complainant's requested value of \$1,120,000, based on a 25% vacancy allowance, resulting in a value of \$105.52 per sq.ft. was set out at page 19 of exhibit C1. Further support was provided with a sale comparable summary sheet of a strip shopping centre at 6208 Rundelhorn Dr. NE, indicating a July 2007 sale price of \$113.13 per sq.ft. The Complainant submits that a correct, fair and equitable assessment is \$1,120,000.

The Respondent submitted that the subject property was awarded an 8% vacancy allowance which is deemed to be typical for strip shopping centres, based on the Assessor's analysis. There was no evidence provided in support of the Respondent's position of a typical 8% vacancy allowance.

Decision:

The correct vacancy rate to be applied in this instance is 25%.

The Complainant's evidence indicates a significant and long term vacancy in the subject property in excess of the allowance of 8% provided for in the Assessor's valuation. Although the Complainant's sale comparable provided support for the requested value per square foot, the Board found that this market indicator was of little value in supporting a July 01, 2009 value for the subject, as the sale occurred almost 2 years prior to the valuation date, and the evidence did not contain pertinent information with respect to vacancy, net income, etc.

Although the Respondent argued that the subject's actual vacancy was included in the determination of the typical allowance, there was no evidence submitted by the Respondent to persuade the Board that the requirements of s.2(c) Alberta Regulation 220/2004, *Matters Relating to Assessment and Taxation Regulation* were met; therefore the Board was unable to determine if the properties included in the analysis were similar to the subject property.

PART D: FINAL DECISION

The assessment is revised from \$1,620,000 to \$1,120,000. It is so ordered.

Dated at the City of Calgary in the Province of Alberta, this 23 day of JULY, 2010.



J. Krysa, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO.	ITEM
1.	Exhibit C1 Complainant's Brief
2.	Exhibit R1 Respondent's Brief

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
1. Kam Fong	Representative of the Complainant
2. Christina Neal	Representative of the Respondent

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.*