

**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

D. Julien, MEMBER

Y. Nesry, MEMBER

A hearing was convened on July 26, 2010 in Boardroom 2, 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:	156128407
LOCATION ADDRESS:	208 Midpark Way SE
HEARING NUMBER:	56457
ASSESSMENT:	\$2,620,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 29,709 square foot (sq.ft.) parcel of land, improved with a 10,539 sq.ft. "strip" retail structure constructed in 1980, and paved surface parking. The property is adjacent to, and part of the Midnapore Mall development.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

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

PART C: MATTERS / ISSUES

The Complainant raised 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 indicated that the evidence and submissions would only apply to matter number 3, an assessment amount. The Complainant set out 9 reasons for complaint in Section 5 of the Complaint form, however at the hearing the Complainant stated only the following issues remained in dispute:

Issue 1: The vacancy (allowance) should be increased from 5% to 10%.

Issue 2: Rental rate should be decreased to \$20/\$19 from \$21/\$20 and be assessed with similar space types within the mall

The Complainant requested an assessment of \$2,190,000.

Issue 1: The vacancy (allowance) should be increased from 5% to 10%.

The Complainant submitted no evidence in support of an increase to the current 5% vacancy allowance.

Decision - Issue 1

The Board finds there was insufficient evidence to disturb the assessment with respect to the vacancy allowance.

Issue 2: Rental rate should be decreased to \$20/\$19 from \$21/\$20 and be assessed with similar space types within the mall

To demonstrate that the assessment of the subject property is inequitably assessed in relation to other properties, the Complainant submitted the assessment calculations from the adjacent property, 240 Midpark Way SE, being the larger component of the Midnapore Mall development and exhibiting assessed "market rent" rates as follows:

CRU Size Range	240 Midpark Way Rent Coefficient	Subject Property Rent Coefficient
1,001 to 2,500 sq.ft.	\$20.00 per sq.ft.	\$22.00 per sq.ft.
2,501 to 6,000 sq.ft.	\$19.00 per sq.ft.	\$21.00 per sq.ft.

The Respondent submitted the Assessment Request For Information (ARFI) form and the rent roll from the subject property, as well as various lease comparables from other properties, (including the Complainant's comparable at 240 Midpark Way) to demonstrate that the subject's rent rate coefficients of \$22.00 and \$21.00 per sq.ft. reflect typical market rents for similar properties [R1 pgs 14 to 19]. The Respondent did not provide any evidence of the rent rate coefficients applied to similar properties to illustrate equity in relation to the subject property.

Decision - Issue 2

The subject's market rent coefficients of \$22.00 and \$21.00 per sq.ft. are not equitable with similar, competing properties.

The Board finds that there was insufficient evidence to suggest that the subject property is superior to the Complainant's comparable at 240 Midpark Way and should therefore command a higher market rent rate. The subject property is part of the same development, and shares the same parking lot, and access as 240 Midpark Way.

Although the evidence indicates that the subject's assessed rent rate coefficients are supported by lease examples that exceed the assessed rent rates, the evidence also indicates that rent rates were not equitably applied in the preparation of the assessments. The Respondent's lease comparables at page 19 of R1, indicate that a \$21.00 rent rate would also be supported in the Complainant's comparable at 240 Midpark Way, however the rent rate coefficient assigned to that space is \$19.00 [C1 pg 18].

PART D: FINAL DECISION

The assessment is revised from \$2,620,000 to \$2,380,000.

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


J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

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

APPENDIX 'B'**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. A. Izard	Representative of the Complainant
2. M. Byrne	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.*