

**CALGARY  
COMPOSITE 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(4).

**between:**

***Altus Group Ltd, COMPLAINANT***

**and**

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

**before:**

***Don H Marchand, PRESIDING OFFICER***

***Phil Pask, MEMBER***

***Bo Jerchel, MEMBER***

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

<b>ROLL NUMBER:</b>	<b>201276433</b>
<b>LOCATION ADDRESS:</b>	<b>1111 Olympic WY SE</b>
<b>LEGAL DESCRIPTION:</b>	<b>Plan 0811488; Block 78; Lot 44</b>
<b>HEARING NUMBER:</b>	<b>59115</b>
<b>ASSESSMENT (2010):</b>	<b>\$19,640,000</b>

This complaint was heard on 29<sup>th</sup> day of July, 2010 at the office of the Composite Assessment Review Board (CARB) located at 4<sup>th</sup> Floor, 1212 – 31 Avenue NE Calgary, Alberta.

Appeared on behalf of the Complainant; *Altus Group Ltd.*: K. Fletcher

Appeared on behalf of the Respondent; *City of Calgary*: D. Grandbois  
W. Wong, observing

**Description and Background of the Property under Complaint:**

The subject is identified with a sub-property use code CM0610 – Retail Condo. The land use designation is Direct Control District. The 2008 strata titled property contains the retail and office components for the Arriva residential condominium development in the community of Victoria Park. The unit which consists of 49,102 square feet is divided into multiple tenant leased spaces similar to a strip retail style of development.

Prior to the opening of the hearing the Complainant advised that only 2 of the 13 points filed as **Grounds for Appeal** within the subject's Assessment Review Board Complaint form under *Section 5 – Reason(s) for Complaint* would be argued at this hearing. They are as follows:

"> The assessed value should be reduced to the lower market value or equitable value based on numerous decisions of Canadian Courts."

"> The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties".

**Issue:**

Is the market value of the subject best indicated by a capitalized income approach with an atypical vacancy allowance adjustment or a market value indicated by the direct sales approach?

**Party Positions:**

The Complainant submitted that the municipality relied too much on the reported \$19,300,000 property transfer of March 16, 2009. It is the Complainant's claim that the property transfer was part of a receivership process taking place in 2009 and that there were some related parties involved within the transfer. This claim is consistent with the same argument put forward to the 2009 Municipal Government Board (MGB) hearing that resulted in a decision to reduce the 2009 assessment to \$13,420,000. The Respondent clarified that the MGB decision was rendered after the 2010 assessment was prepared and complained against. The Respondent also acknowledged that had the details behind the transfer been known to them prior to the 2009 MGB hearing they would not have placed the weight they did to the \$19,300,000 transfer price in the preparation of the assessment.

The Complainant proposes an assessment based on income approach valuation. The Complainant recommends the use of the same parameters applied by the municipality for the valuation of SE strip retail malls with an adjustment from the typical 7% vacancy allowance to a 25% allowance. The 25% vacancy allowance is to recognize the typical vacancy the subject has been receiving since its construction of around 50%. The resultant assessment using these data parameters is \$12,180,000 truncated to **\$12,200,000 or \$248.47 per square foot** - Ref. page 185 of exhibit c-1. The Complainant also provided the CARB with a summary of seven Retail-Condo Sales. The per square foot price range was from a low of \$256.62 per sq. ft. to a high of \$381.41 per sq. ft. The median and average of the seven sales is \$305.01 and \$317.14 respectively. The Complainant's main emphasis is being placed on the fact that the subject's assessment at **\$400.00** per square foot

is unreasonable.

The Respondent advised that all the CM0610 – Retail Condo were assessed via the direct sales comparison approach and provided the CARB with five equity comparables that indicate assessment's of \$299.80 to \$347.78/sq. ft. The median and average are \$300.00 and \$315.00 per sq. ft. respectively.

The Respondent provided four CM0610 – Retail Condo Sales, two are from the same complex at 1238 12<sup>th</sup> AV SW, and both sold in mid 2009. The first is for 970 square feet at a rate of \$443/sq. ft. and the second is at a rate of \$383/sq. ft. The other two are post valuation date at \$472.00 and \$381/sq. ft. The sale at 1436 8 ST SW was introduced to the CARB by both parties. Its indicated rate per square foot is at \$381.00. It is pointed out here that this indicator was for 5,047 sq. ft. and subject contains 49,101 square feet.

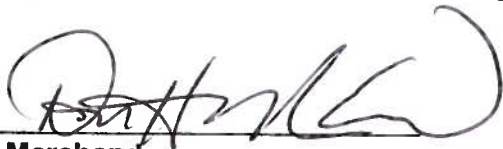
**Decision:**

The assessment is revised to **\$16,200,000.**

**Reasons for the Decision:**

The income approach determines value based upon many factors that depend upon and influence each other. The level of income is dependent upon a multiple of factors and features. Without evidence that supports the fact that the subject would trade in the market equivalent to a SE strip retail type property the direct sales approach has been used as approach of choice to evaluate the retail condominium units such as the subject. The challenging fact particular to the subject is the unit's size. The CARB like the parties is not prepared to place significant weight to the \$400.00 per square foot transfer assigned price. However, the CARB is not disregarding the mortgage and loan details found in the transfer documents. The common sale with its \$381.00 per square foot indicator shown by both parties is the largest in size of the valid sales. The CARB accepts that a downward adjustment is warranted to this indicator to reflect a 49,101 square feet unit. A rate of \$330.00 per square foot is considered reasonable.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF SEPTEMBER 2010.



**D. H. Marchand**  
**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.*