

**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:**

***Steven C. Kashuba, PRESIDING OFFICER***

***Donald Steele, MEMBER***

***John Mathias, 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: 043073105**

**LOCATION ADDRESS: 1923 Uxbridge Drive NW**

**HEARING NUMBER: 57464**

**ASSESSMENT: \$5,100,000**

This complaint was heard on the 9th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212-31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- *Kam Fong*

Appeared on behalf of the Respondent:

- *Wanda Wong*

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

There were no procedural or jurisdictional matters presented.

**Property Description:**

The subject property is located in the University Heights subdivision of the City and its use is classified as being CM021, Retail Store – Strip. The land consists of 1.33 acres and the rentable area of the improvements is 17,580 square feet occupied by The Keg (10,000 square feet), Red Water Grill (3,471 square feet), and Wendy's (2,710 square feet). The current assessment is \$5,100,000.

**Issues:**

1. The lease rates applied to the three restaurants are too high.

**Complainant's Requested Value:** \$3,550,000

**Position of Complainant:**

It is the position of the Complainant that the assessed rates of \$26 (the Keg) and \$30 per square foot for full service restaurants (Red Water Grill and Wendy's) are inequitable with other similar full service restaurants and that a rate of \$15 (the Keg) and \$26 (Red Water Grill and Wendy's) should be applied.

In support of their position, the Complainant presented 7 lease comparables (C-1, page 25), one of which is the subject property. The six other lease comparables are located in the SW and SE sectors of the City whereas the subject property is located in NW Calgary. The median lease amount for the seven comparables is \$15 per square foot.

As for the lease comparable that best reflected the characteristics of the subject property, the Complainant submitted that the Schanks Athletic Club Restaurant, a lease that was signed in 2004 with a lease rate of \$14 per square foot, best reflected the characteristics of the subject property (C-1, page 26).

Seven additional equity examples of fast food restaurants (C-1, pages 40 – 53) were provided by the Complainant. Six of seven comparables reflected lease rates of \$28 per square foot while one restaurant had a lease rate of \$26 per square foot. As for equity examples of

restaurants which had a dining lounge, the Complainant presented 7 comparables wherein the lease rates per square foot ranged from \$24 to \$26 per square foot.

In conclusion, the Complainant requested that a rate of \$26 per square foot be applied to the Red Water Grill and Wendy's Restaurant, and a rate of \$15 per square foot be applied to the Keg Restaurant. By applying these rates in their Pro-Forma, the Complainant arrived at a requested assessment value of \$3,550,000.

**Position of Respondent:**

In support of the current assessment, the Respondent presented 10 leases of comparable restaurants with a floor area in excess of 5,000 square feet wherein the median value per square foot is \$25.99 and the average is \$26.12 per square foot. As a result, it is the submission of the Respondent that a value of \$26 per square foot was correctly applied to The Keg, which has a floor area of 10,000 square feet (R-1, page 12).

In support of the application of \$30 per square foot for the Red Water Grill (leases below 5,000 square feet), the Respondent presented 6 comparable restaurants which, on average, have lease rates of \$30.19 per square foot and a median of \$31.10 per square foot (R-1, page 12).

Finally, in support of the application of \$30 per square foot for Wendy's Restaurant, the Respondent presented 3 lease comparables, one of which was the subject property itself and which shows that the average lease rate per square foot is \$30.97 and a median rate of \$31.19 per square foot. A rate of \$30 per square foot was applied by the Respondent to Wendy's Restaurant (R-1, page 12).

**Board's Decision in Respect of Issue:**

The Board places considerable weight upon the evidence presented by the Respondent that the application of a lease rate of \$30 per square foot for Red Water Grill and Wendy's is fair and correct. Further to this, the Board notes that the evidence of the Complainant supports a lease rate of \$28 per square foot; a value close to that applied to the two subject properties.

As for the Keg Restaurant, the Board finds that the evidence provided by the Respondent (R-1, page 12) does not support the assessment and, in fact, supports the Complainant's position that the lease rate applied to the Keg cannot be supported by comparable leases. In particular, the Board notes that one comparable lease taken from the NE quadrant of the City (3064 – 32 Street NE) does have an area of 13,503 square feet (the subject property has 10,000 square feet of floor space) thereby making it a valid comparable by virtue of the size. In this case the lease rate is \$18.50 per square foot. Two other comparables which exhibit similar lease areas taken from the NW quadrant of the City (320B – 16 Avenue NW and 2002 – 16 Avenue NW) which have floor areas of 6,205 square feet and 7,560 square feet respectively, have lease rates of \$19.34 and \$23.00 per square foot.

As for the evidence presented by the Complainant in support of their request for the application of a lease rate of \$15 per square foot to the Keg, the Board places little weight upon the use of Schanks Sports Bar as a comparable (C-1, page 25) which has a floor area of 16,126 square feet because the lease of \$14 per square foot is somewhat dated in that its start date is 2006 and its end date is 2011. However, the Board does place considerable weight upon the

Complainant's comparable of Ruth Steakhouse, which exhibits characteristics similar to that of the Keg, has a floor area of 11,388 square feet, and has a lease rate of \$20 per square foot, with a start date of 2007 and an end date of 2027.

Having regard for the evidence of both parties as related to the Keg Restaurant, the Board finds that the lease rate of \$26 per square foot currently applied in the Pro-Forma to arrive at the current assessment cannot be supported. In place of the \$26 per square foot, the Board applies a lease rate of \$20 to the Keg Restaurant. As a result, the following rates are applied in the Pro-Forma:

1. Red Water Grill, a rate of \$26 per square foot to an area of 3,471 square feet,
2. Wendy's Restaurant, a rate of \$30 per square foot to an area of 2,710 square feet, and
3. The Keg Restaurant, a rate of \$20 per square foot to an area of 10,000 square feet.

By applying these values in a Pro-Forma, an assessment of \$4,250,000 is derived.

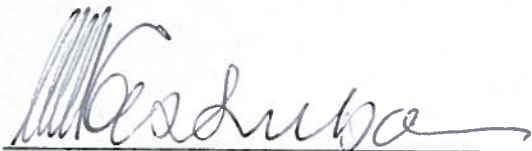
**Board's Decision:**

It is the decision of the Board to reduce the assessment of the subject property for 2010 from \$5,100,000 to \$4,250,000.

**Reasons:**

Evidence provided by both parties supports the lease rate of \$30 per square foot for the Red Water Restaurant of 3,471 square feet, and \$26 per square foot for Wendy's Restaurant of 2,710 square feet. However, when considering equitable lease rates for restaurants which have a floor area in excess of 5,000 square feet, the Board finds that the lease rate of \$26 per square foot as utilized by the Respondent in determining the assessment of the subject property cannot be supported. In this regard the Board finds that the evidence of both parties does support a value of \$20 per square foot for the subject's area of 10,000 square feet. By applying these rental rates within the Pro-Forma, the Board concludes that a reduction in the assessment value is justified.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF September 2010.



**Steven C. Kashuba**  
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.*