

**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, Section 460(4).

between:

Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER

K. Coolidge, MEMBER

R. Deschaine, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) 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: 200613909

LOCATION ADDRESS: 500 4915 130 AV SE

HEARING NUMBER: 59072

ASSESSMENT: \$ 7,440,000

This complaint was heard on 25th day of November, 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:

- Mr. A. Izard (Altus Group Ltd.)

Appeared on behalf of the Respondent:

- Mr. I. McDermott (The City Of Calgary)

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

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject property is part of the McKenzie Towne shopping or "power" centre located in SE Calgary. The property consists of three buildings with a net rentable area of approximately 23,395 square feet (SF), and are situated on an assessable land area of approximately 121,636 SF.

The property is assessed using the Income Approach to value with the following parameters:

- "Bank" space of 5,500 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "CRU 0 – 1000 SF" space of 1,835 SF is assessed at a rate of \$30.00 per SF with a vacancy rate of 2%.
- "CRU 2501- 6000 SF" space of 4,560 SF is assessed at a rate of \$26.00 per SF with a vacancy rate of 2%.
- "CRU 6000+ SF" space of 11,500 SF is assessed at a rate of \$21.00 per SF with a vacancy rate of 2%.
- Operating costs of \$9.00 per SF at a non-recoverable rate of 1%.
- A Capitalization rate (cap rate) of 7.5%

Issues:

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form are as follows:

1. The subject property is assessed in contravention of Section 293 of the *Municipal Government Act and Alberta Regulation 220/2004*.
2. The use, quality, and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289 (2) of the *Municipal Government Act*.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. This Notice is filed based on information contained in the Assessment Notice as

well as preliminary observations and information from other sources. Therefore the requested assessment is preliminary in nature and may change.

5. The classification of the subject premise is neither fair, equitable, or correct.
6. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.
7. The assessment of the subject property is in excess of its market value for assessment purposes.
8. The assessed cap rate is incorrect and should be 8.5%.
9. The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for CRU retail spaces at 5%.
10. The assessed rental rate applied to the CRU > 6000 within the subject property should be \$19.

However, as of the date of this hearing, the Complainant addressed the following issues:

1. The rental rate applied to the CRU between 2,501 and 6,000 SF is neither fair nor equitable – a rate of \$24.00 per SF should be applied.
2. The rental rate applied to the CRU greater than 6,000 SF is neither fair nor equitable – a rate of \$19.00 per SF should be applied.

Complainant's Requested Value:

\$5,910,000 on the complaint form revised to \$7,030,000 at this hearing.

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

ISSUE 1: The rental rate applied to the CRU between 2,501 and 6,000 SF is neither fair nor equitable – a rate of \$24.00 per SF should be applied.

The Complainant's document of evidence labeled "Exhibit C1" provided the following evidence with respect to this issue:

- A rent roll and income summary of the subject with the following information:

Tenant	NRA	Rate	NARV
Small < 1,000 SF			
Fabulous Nail	875	\$28.50	\$24,938
First Choice Hair	960	\$30.50	\$29,280
Large 2,501 – 6,000 SF			
Sleep Country	4,560	\$27.00	\$123,120
XLarge > 6,000 SF			
Petland	11,500	\$18.75	\$215,625
Pad			
First Calgary Credit Union	5,500	\$27.00	\$148,500

	Combined NRA	Combined Rate	Combined NARV
Small	1,835	\$29.55	\$ 54,218
Large	4,560	\$27.00	\$123,120
Xlarge	11,500	\$18.75	\$215,625
Pad	5,500	\$27.00	\$148,500
Total	23,395	\$23.14	\$541,643

- A listing of five equity comparables of CRU space between 2,501 and 6,000 SF in the McKenzie district all with a rental rate of \$24.00 per SF.
- A City of Calgary "2010 Business Lease Comparable Report" of six CRU spaces between 2,501 and 6,000 SF, located at 4307 130 AV SE, and showing a median lease rate of \$24.00, all negotiated within the assessment year.
- A listing of seven leases located at 4307 130 AV SE, showing a median lease rate of \$24.00, and all negotiated within the assessment year. The lease rates ranged from \$23.61 per SF to \$28.00 per SF, and all were negotiated within the assessment year.
- A City of Calgary "2010 Business Assessment Comparable Report" of five CRU spaces between 2,501 and 6,000 SF, located at 4307 130 AV SE, and showing business assessment rates of \$24.00.

The Complainant concluded his analysis by indicating that the assessment rate applied to subject's CRU space between 2,501 and 6,000 SF should be reduced to \$24.00 per SF based on the information above.

The Respondent's document of evidence labeled "Exhibit R1" provided the following evidence with respect to this issue:

- An Assessment Request For Information (ARFI) dated March 21, 2009 was provided showing the subject's current lease agreements. The Respondent pointed out that all the leases are dated with lease start dates of August 1, 2005.
- Property assessments of the five equity comparables of the subject, as provided by the Complainant in his evidence. In each case except one (assessed as a "community" centre not a "power" centre) the assessment rate applied to CRU spaces between 2,501 and 6,000 SF was \$26.00 per SF.
- Stated that all the business lease and assessment comparables for CRU spaces between 2,501 and 6,000 SF, as provided by the Complainant, are assessed at a rate of \$26.00 per SF for property.

The Respondent concluded his analysis by indicating that the assessment rate applied to the subject's CRU space between 2,501 and 6,000 SF is properly assessed at \$26.00 per SF.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

- The assessment rate of \$26.00 applied by the Respondent to the subject's CRU spaces between 2,501 and 6,000 SF is equitable and within an acceptable range of rental rates experienced by similar properties negotiated within the assessment year. The CARB notes that the subject is currently renting similar sized CRU space at \$27.00 per SF and the range of rental rates for comparable space, as provided by both parties, varies from \$23.61 to \$28.00 per SF.

ISSUE 2: The rental rate applied to the CRU greater than 6,000 SF is neither fair nor equitable – a rate of \$19.00 per SF should be applied.

The Complainant's document of evidence labeled "Exhibit C1" provided the following evidence with respect to this issue:

- A rent roll and income summary of the subject as outlined under Issue 1 above.
- A listing of three equity comparables of CRU space greater than 6,000 SF, in the

McKenzie district, all with a rental rate of \$19.00 per SF.

- A City of Calgary "2010 Business Assessment Comparable Report" of seven CRU spaces of greater than 6,000 SF, located along 130 AV SE, all with a rental rate of \$19.00 per SF.
- Another City of Calgary "2010 Business Assessment Comparable Report" of five CRU spaces of greater than 6,000 SF, located along 130 AV SE, all with a rental rate of \$19.00 per SF.

The Complainant concluded his analysis by indicating that the assessment rate applied to subject's CRU space greater than 6,000 SF, should be reduced to \$19.00 per SF based on the information above.

The Respondent's document of evidence labeled "Exhibit R1" provided the following evidence with respect to this issue:

- An Assessment Request For Information (ARFI) dated March 21, 2009 as indicated under Issue 1 above.
- A City of Calgary "2010 Business Lease Comparable Report" of five CRU spaces of greater than 6,000 SF, four of which were located along 130 AV SE. The range of rental rates indicated on the report was from \$15.00 per SF to \$31.00 per SF. Two of the properties with a lease start date within the assessment year were at \$22.00 per SF.
- Property assessments of the three equity comparables of the subject, as provided by the Complainant in his evidence. In each case the assessment rate applied to CRU space greater than 6,000 SF was \$21.00 per SF.
- Stated that all the business assessment comparables for CRU spaces greater than 6,000 SF as provided by the Complainant, are assessed at a rate of \$21.00 per SF for property.

The Respondent concluded his analysis by indicating that the assessment rate applied to the subject's CRU space greater than 6,000 SF is properly assessed at \$21.00 per SF.

Decision: Issue 2

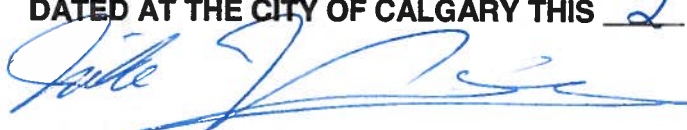
In view of the above considerations, the CARB finds as follows with respect to Issue 1:

- The assessment rate of \$21.00 applied by the Respondent to the subject's CRU space greater than 6,000 SF is equitable and within an acceptable range of rental rates experienced by similar properties negotiated within the assessment year. The CARB notes that the range of rental rates for comparable space, as provided by the Respondent, varies from \$18.75 (the subject) to \$33.00 per SF, with leases negotiated within the assessment year renting at \$22.00 per SF.

Board's Decision:

The Board confirms the assessment at \$7,440,000.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF December 2010.



Michael A. Vercillo

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.*