

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, Revised Statutes of Alberta 2000 (the Act).

between:

MALDEGHEM HOLDINGS LTD.
(as represented by Altus Group Ltd.), **COMPLAINANT**

and

The City Of Calgary, RESPONDENT

before:

Earl K. Williams, PRESIDING OFFICER
A. Huskinson, MEMBER
A. Maciag, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2013 Assessment Roll as follows:

ROLL NUMBER: 058169004

LOCATION ADDRESS: 1140 Kensington RD NW

FILE NUMBER: 72883

ASSESSMENT: \$1,900,000

This complaint was heard on 12th day of August, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- K. Fong Agent, Altus Group Ltd
- D. Main Agent, Altus Group Ltd

Appeared on behalf of the Respondent:

- E. D'Altorio Assessor, The City of Calgary
- N. Sunderji Assessor, The City of Calgary
- T. Johnson Assessor, The City of Calgary (Observing)

Procedural or Jurisdictional Matters:

- [1] The parties notified the Board that the issue of the assessed capitalization rate (cap rate) has been withdrawn in respect of the subject property (File # 72883).
- [2] No additional Procedural or Jurisdictional Matters were raised by the parties.

Property Description:

[3] The subject property at 1140 Kensington Rd NW is a 4,875 square foot (sq. ft.) retail on 0.16 acre of land with a 1950 approximate year of construction (ayoc) assigned a A- quality rating in the community of Hillhurst with the Property Use: Commercial and Sub Property Use: CM0201 Retail – Freestanding. The design of the building is such that there is no ground level development, from ground level stairs go either down to the below grade level or up to the above grade level. The below grade level of 2,400 sq. ft. is leased to a restaurant dining lounge and the above grade retail of 2,475 sq. ft. which is a Commercial Retail Unit (CRU) 1,001-2,500 sq. ft.) is retail.

[4] The assessment was prepared on the Income Approach with a capitalization rate (cap rate) of 7.00%; a market rental rate of \$31.00 per square foot (psf) for the restaurant dining lounge and \$30.00 psf for the CRU 1,001-2,500 sq. ft. retail.

Issues:

- [5] Should the subject property be categorized as a B quality instead of an A quality building based on achievable rental rates?
- [6] Should the subject property be assessed on the Income Approach with the assessed rental rate for the restaurant reduced from \$31.00 psf to \$10.00 psf and the rental rate for the retail reduced from \$30.00 psf to \$24.00 psf?

Complainant's Requested Value: \$1,049,000

Board's Decision:

[7] Based on the evidence and arguments presented the Board supports a reduction in the rental rate for the lower level restaurant space to \$10.00 psf.

[8] The assessment is reduced to \$1,240,000.

Position of the Parties

[9] The Complainant and Respondent presented a wide range of evidence consisting of relevant and less relevant evidence. In the interests of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[10] The Complainant's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the 2013 Property Assessment Notice, City of Calgary 2013 Property Assessment Summary Report, the City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the Rental Rate the evidence included, the Assessment Request for Information (ARFI), and a study of equity comparables.

[11] The Respondent's evidence package included a Summary of Testimonial Evidence, a map identifying the location of the property, photographs of the exterior of the subject property, the 2013 Property Assessment Notice, City of Calgary 2013 Property Assessment Summary Report, City of Calgary Non-Residential Properties – Income Approach Valuation work sheet. In support of the Rental Rate the evidence included, the ARFI, and a study of lease comparables.

[12] Both parties placed a number of Assessment Review Board and Municipal Government Board decisions before this Board in support of their position. These decisions were made in respect of issues and evidence that may however be dissimilar to that before this Board.

Issue – Quality Classification and Rental Rate**Complainant's Position:**

[13] The Complainant argued that quality classification impacts on the assessment rental rate particularly for the areas above grade. In support of an equity argument the Complainant presented 3 CM0201 Retail Freestanding properties (pages 36-47 of Exhibit C1) in the immediate vicinity of the subject. The particulars are as follows:

| Municipal Address | AYOC | Quality | Building Area |
|------------------------|------|---------|----------------|
| 1145 Kensington CR NW | 1988 | B | 8,795 sq. ft. |
| 1126 Kensington Rd NW | 1980 | A2/A+ | 22,865 sq. ft. |
| 1211 Kensington Rd NW | 1989 | A+ | 10,097 sq. ft. |
| 1140 Kensington Rd NW* | 1950 | A- | 4,875 sq. ft. |

Note * Subject Property

[14] The Complainant argued that the best comparable to the subject is 1145 Kensington CR NW as the building is similar in area and has 3 levels of retail space; a below grade of 3,030 sq. ft., a first level above grade of 2,735 sq. ft. and a 3,030 sq. ft. upper level. The market rental

rates are \$24.00 for the CRU 1,001-2,500 sq. ft. and \$10.00 psf for the below grade area.

[15] As further support for the requested below grade rental rate the Complainant noted that each of the 3 comparables noted in paragraph [13] have below grade space that is assigned a rental rate of \$10.00 psf.

[16] In summary the equity comparables support a change in quality classification and particularly the requested reduction in the rental rate.

Respondent's Position:

[17] In respect of the quality classification the Respondent argued that the classification methodology involves a number of factors. On page 13 of Exhibit R1 a page titled Physical & Economic Characteristics/Quality Classification presents details on the characteristics included in determining the classification of a property. As noted on this page the year of construction is one of eight factors. Another factor is location. In the case of the quality classification of the subject property it must be noted that all properties on Kensington Rd NW have been assigned an A quality classification while the property on Kensington CR NW has been assigned a B quality classification.

[18] The Respondent's table titled Lease Comparables 1,001-2,500 sq. ft. (page 21 Exhibit R1) presented lease particulars on 7 comparables in the vicinity of the subject property. As the lease date for one of the comparables was March 2009 it was excluded from the analysis. The leased areas of the remaining 6 comparables ranged from 1,076 sq. ft. to 1,489 sq. ft. and the lease rates ranged from \$18.00 psf to \$42.00 psf. The median lease rate was \$32.50 psf and the mean was \$31.00 psf.

[19] In support of the lease rate of \$31.00 for the below grade restaurant space the Respondent reviewed the table titled 2013 Lease Comparables PAD Restaurants Revised on page 22 of Exhibit R1. The median lease rate for the 10, A quality PAD restaurants was \$31.00 psf, the 11, B quality PAD restaurants was \$25.00 psf and the 4, C quality PAD restaurants was \$18.00 psf.

[20] A review of the August 2012 ARFI determined that the upper level retail has been vacant since August 2012 while the lower level retail currently leased to a restaurant at a lease rate of \$42.00 with the 5 year lease expiring August 2013.

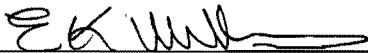
[21] In summary the Respondent argued that the classification of the subject property is supported by the equity comparables. Further the lease rates are supported by the median of \$32.50 psf for the CRU 1,001-2,500 sq. ft. lease comparables reported on page 21 of Exhibit R1; the PAD restaurant study and the August 2012 ARFI.

Board's Reasons for Decision:

[22] Following a review of the evidence presented the Board determined that the Respondent's restaurant comparables were for Pad restaurants and not for restaurants located in a space similar to the subject property.

[23] Based on the evidence and arguments presented, the rental rate for the lower level space in the subject property is reduced to \$10.00 psf.

DATED AT THE CITY OF CALGARY THIS 5th DAY OF November 2013.



Earl K. Williams

Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

| NO. | ITEM |
|------------|---|
| 1. C1 | Complainant Disclosure Subject Property Disclosure |
| 2. R1 | Respondent Disclosure |

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.*

FOR ADMINISTRATIVE USE

| Appeal Type | Property Type | Property Sub-Type | Issue | Sub-Issue |
|--------------------|----------------------|--------------------------|-----------------|------------------|
| CARB | RETAIL | Free Standing | Income Approach | Lease Rate |