

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint against the Property assessment as provided by the *Municipal Government Act* being Chapter M-26, Section 460(4).

between:

Altus Group Ltd. - Complainant

and

The City of Calgary - Respondent

before:

**J. Schmidt, PRESIDING OFFICER
K. Kelly, MEMBER
J. Massey, MEMBER**

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

ROLL NUMBER:	068049907
LEGAL DESCRIPTION:	Plan C, Blk 24, Lots 1-11, 32-40
FILE NUMBER:	58494
ASSESSMENT:	\$607,300,000

This complaint was heard on June 10 and 11, 2010 at the office of the Assessment Review Board located at 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:
Judson E. Virtue – Solicitor, Macleod Dixon LLP

Ryan C. Penner – Solicitor, Macleod Dixon LLP
Doug Hamilton – Altus Group Ltd.
Daryl Genereux – Altus Group Ltd.

Appeared on behalf of the Respondent:

Leila Gosselin – Solicitor, City of Calgary
Iona L. Saldanha – Solicitor, City of Calgary
Roy Fegan – Solicitor, City of Calgary
Dan Lidgren – Assessor, City of Calgary

Property Description and Background

The subject property was originally built as the Esso Plaza and is now known as the Fifth Avenue Place, located at 222 – 5 Avenue SW. This property was developed in 1980 as a twin 35 storey office complex. There are 791 on site parking spaces, approximately 42,150 square feet of retail space and is connected to the downtown Calgary +15 pedway system. For property assessment purposes, this property is classified as an “A” office. The assessed value is based on the income approach to value by applying the direct capitalization method for estimating market value.

Issues:

In considering the complaint as filed, together with the representation and documents presented by the parties, the specific issues which are addressed in this case are as follows:

1. Office rental rate
2. Office stabilized vacancy rate
3. Retail rental rates
4. Overall capitalization rate
5. Cost of elevator upgrade.

Board’s Findings respecting each issue:

1. The typical market office rental rate for the subject “A” class office space as of July 1, 2009 was \$30.00 per square foot.
2. The stabilized vacancy rate for “A” class office space for the 2009 property assessment is 3%.
3. Typical class “A” retail rental rate for main floor space is \$40.00 per square foot. The typical retail rental rate for second level floor space is \$40.00 per square foot.
4. The overall capitalization rate for the subject “A” class property is 7.50%.

5. The cost of the elevator upgrade does not reduce the market value of the subject property.

Reasons:

1. Office rental rate

The Complainant took the position "A" class office lease rate should be \$27.00 in calculating the market value for this property. A weighted average of \$24.00 is determined based on actual full floor lease deals signed, combined with lease agreement deals transacted for post 2009 start dates.

The Respondent countered that the assessment was determined, in part, based on property manager's reported new leases with a start date occurring during the subject one year assessment cycle. There were 53 class "A" office leases reported with a weighted average lease rate of \$31.77. Net rental rates for the second quarter 2009 class "A" downtown Calgary office space was reported by five individual industry agencies ranging from \$27.00 to \$35.19. The median rate is \$30.00 with the average rate over \$30.00.

The Board is satisfied that the best evidence is the actual leases which transacted during the current assessment year cycle. In this case some 53 reported leases for "A" class office space, by property managers, indicate a weighted average lease rate at \$31.77 which is considered representative of the typical lease rate for the assessment year in questions. This representative rate together with the industry reported rate supports the \$30.00 rate applied in the assessment calculation and is accepted as being reasonable.

2. Office Stabilized Vacancy Rate

The Complainant submitted that the Calgary downtown vacancy rate as reported for September 2009 is shown at 10.2%. In particular industry reported vacancy rates shown by Colliers second quarter at 4.76% and third quarter 2009 at 8.19%. Cresa has reported second quarter at 5.51% and third quarter 2009 at 7.93%. Due to a large inventory of office space being constructed and scheduled to be available for lease, it is projected that a higher than usual vacancy rate will occur in the near future. With this in mind the "A" office stabilized vacancy rate used in the assessment calculation should be 8%.

The Respondent countered that a stabilized vacancy rate is established for purposes of capitalizing income for the purposes of market value assessment. To establish this rate property managers are requested to report, in part, vacant space for a particular assessment year cycle. In this case there were some 28 property reports received for "A" class office space. Those reports indicate a vacancy rate ranging from 2.389% for 2009 to 4.391% for 2010. Industry reports such as Cresa show headlease vacancy for "A" office space at 1.88% for second quarter 2009. Avison Young reported a vacancy of 1.9% for class "A" office space in second quarter 2009. Colliers

show 3.83% including available subleases and Barclay vacancy report indicates 6.4% for second quarter 2009.

In the absence of actual reported vacancies for the subject class office space the industry reported rates ranging from 1.88% to 6.40% would be persuasive. In this case the Board will rely on reported vacancy, for the assessment year at issue, as supplied by property managers on request. The fact that those reported indicate a vacancy rate at 2.389 for all the "A" class office space as reported for 2009 leads to the conclusion that the 3% stabilized vacancy rate as applied in calculating the assessment is reasonable and is accepted.

3. Retail rental rate

The Complainant submitted that the main floor retail space should be assessed based on a typical \$30.00 rental rate and the second floor retail space should be assessed based on a \$27.00 rental rate.

The Respondent claimed that reported lease rates as supplied by property managers on request shows class "A" retail lease rates in downtown Calgary to typically be \$40.00 for main level space and \$50.00 for second level space attached to +15 strata space.

In this case the Board is satisfied that the lease rates as reported by property managers supports the \$40.00 rate for the main lease typical retail space. The Board is not convinced that the evidence supports a \$50.00 second level retail rate. The average reported rate is shown at \$49.65 with the weighted average at \$43.59. This would indicate a typical second level "A" class retail for the subject property closer to \$40.00. The weighted average for the main floor is shown at \$42.82. The evidence would support the typical lease rate for the second level retail space as being equal to the first level retail space rental rate. Since the second level retail space includes a small portion of the overall property, an adjustment from \$50.00 to \$40.00 per square foot on some 20,000 square feet would indicate a market value adjustment of less than 0.05% to the assessment.

The subject assessment falls within the statutory requirement as provided for in mass appraisal for market value purpose and therefore the Board will not change the assessment for the second floor retail space rental rate.

4. Overall Capitalization Rate

The Complainant submitted that sale data supports a capitalization rate no less than 8% which should be used in this case for calculating market values by means of the income approach to value.

The Respondent took the position that the 7.50% cap rate used in the assessment is in fact supported by the Complainant's evidence where it shows the Gulf sale with a 6.6% cap rate and the Plains Midstream sale with a 6.7% cap rate.

The Gulf sale is considered a "B" class property; however the Plains Midstream is classed as an "A" property. One other "A" class property sale was observed which occurred in April 2008 with an indicated cap rate at 6.61%. The two "A" class properties had an average indicated cap rate of 6.90%.

A summary of the industry cap rates as reported for the second quarter 2009 shows Colliers at 7.25% to 7.75% and CBRE at 7.50 to 8% for "A" class office property.

Even with numerous sale transactions cap rates seem to have a wide range of comparability. In this case one "A" class sale took place in 2008 showing a cap rate of 6.61%. Some consideration can be placed on this sale; however, it is not compelling. The Board will place more reliance on the industry "A" reported cap rates ranging from 7.25 to 8.0%. The 7.5% used appears near the bottom end of the cap rate summary, however since it is used for all the class "A" office properties in downtown Calgary, it can be considered reasonable. The Board will therefore accept the cap rate at 7.5% for the subject property.

5. Elevator Upgrade Costs

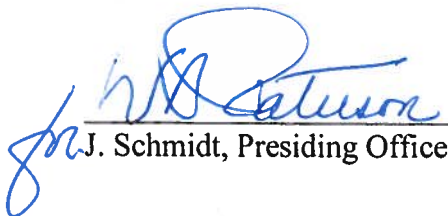
The evidence was that some \$1.45 million was expended to upgrade the elevator component of the subject property. The Board cannot accept that this expenditure would have a negative effect on the market value as the Complainant contends. The Respondent's position that this cost could in fact have a positive effect on value is accepted.

Decision:

Having given careful consideration to the evidence, argument and fact which came forward in this case, the complaint is not allowed.

Accordingly, the assessment is confirmed at \$607,300,000.

Dated at the City of Calgary, in the Province of Alberta, this 8 day of July, 2010.


J. Schmidt, 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 related 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 person 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.