

**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 Ltd., *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

J. Noonan, *PRESIDING OFFICER*

D. Cochrane, *MEMBER*

D. Morice, *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:	156141905
LOCATION ADDRESS:	340 Midpark Way SE
HEARING NUMBER:	59223
ASSESSMENT:	\$25,270,000

This complaint was heard on the 13th day of July, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- D. Chabot, *Sr. Consultant*, Altus Group

Appeared on behalf of the Respondent:

- A. Jerome, *Assessor Intern*, The City of Calgary

Property Description:

The subject is located at 340 Midpark Way SE, Calgary. It is an "A" quality suburban office assessed by the income approach, employing the typical inputs determined by the Respondent for this inventory. The assessed value is \$25,270,000.

Issues:

1. Should the vacancy allowance be increased from 6% to 9.5%?

Sub-issue: Should the sale of the subject in October, 2008 at a price well in excess of the assessed value be considered when deciding the issue?

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

The CARB here heard evidence and argument identical to that presented for a number of other southeastern office properties on the issue of the appropriate vacancy allowance, and summarized as follows:

The Complainant referred to the City's Southeast Office Vacancy Study and pointed out to the Board examples of incorrect data, the exclusion of some office space that was assessed on roll numbers incorporating other development, and the inclusion of some office space that was atypical. The most substantial problem was the exclusion of some 104,000 sq.ft. of vacant space from an improvement of 108,000 sq.ft. at 1220 59 Ave SE. Including that space and making modest corrections to the City data, but not excluding those spaces the Complainant thought atypical, the conclusion was a vacancy rate of some 9.25%. The Complainant introduced vacancy estimates from Avison Young, Colliers and CBRE, all showing higher rates in the Q2-Q3 2009 period. Also introduced were 2 recent ARB decisions reached on very similar evidence to that presented here, both concluding a 9.5% vacancy rate for southeast offices.

The Respondent defended the Vacancy Study which was developed from ARFI information for 92 buildings with a total of 3,953,735 sq. ft., of which 243,359 sq. ft. was reported vacant, or 6.16%. Eight properties totalling some 300,000 sq. ft. had been excluded as ARFIs for those properties had not been returned or were incomplete. It would be wrong to selectively include data from just one of the missing eight, as the numbers would be distorted.

The Respondent observed that the third party vacancy estimates included space available for sub-lease, and so were high estimates.

The CARB heard that even excluding the sub-lease areas from the third party estimates, the resulting figures were much closer to the requested 9.5% than the City's 6%. The block of vacant space at the 59 Ave property should be considered, despite the absence of an ARFI, as this significant vacant space would impact the localized market. Accordingly, this panel concurs with the decisions reached by two previous panels and the vacancy allowance for the typical southeastern offices should be 9.5%.

The CARB heard from the Respondent that the subject property sold in October 2008 for a price of \$29,060,000 well in excess of the assessed value, \$25,270,000 and this should be considered by the panel in deciding whether the assessment should be reduced or confirmed. The CARB recognizes that an assessment is an estimate of market value and the best indicator of value is the sale of a subject property reasonably close to the valuation date. At first glance, to confirm this assessment would seem to create an assessment inequity as compared with other properties which were granted a vacancy allowance of 9.5%. The CARB finds this property distinguishable or atypical in that it sold for well above assessed value, suggesting that the subject has attributes beyond its comparables in the local market. To grant a reduction would be to move further from the value established in the market.

Board Decisions on the Issues:

The Board confirms the assessment of \$25,270,000.

DATED AT THE CITY OF CALGARY THIS 4th DAY OF August 2010.


J. Noonan
Presiding Officer

JN/kc

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.*