

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, being Chapter M-26, Section 460(4) of the Revised Statutes of Alberta (Act)

between:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Board Chair, L. LOVEN

Board Member, R. ROY

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

ROLL NUMBER:	LOCATION ADDRESS:	HEARING NUMBER:	ASSESSMENT:
046045308	1701 CENTRE ST NW	57696	11,100,000

This complaint was heard on 29th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #9.

Appeared on behalf of the Complainant:

- *Danielle Chabot– Representing Altus Group Inc., as agent for BRE (1701 Centre Street) Ltd.*

Appeared on behalf of the Respondent:

- *Karen Moore– Representing the City of Calgary*

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

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

Property Description:

The property under complaint consists of a 53,080 square foot high-rise office building. The property is within the Tuxedo Park community located in northwest Calgary.

Issues:

The Complainant raised the following matters in section 4 of the complaint forms: assessment amount, and assessment class.

The Complainant, in section 5 of the Complaint forms, requested a preliminary assessment of \$7,770,000; and, provided the following reasons for complaint:

Grounds for appeal:

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 properties 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. The information requested from the municipality pursuant to Section 299 or 300 of the Municipal Government Act was not provided;
5. The assessed rental rate applied to the subject property should be lowered to below \$16.50 per square foot;
6. Account for a variety of risk factors the capitalization rate should be increased to over 9%;
7. The assessed vacancy allowance applied to the subject property should be increased to above 8%;
8. The assessed area is incorrect; and,
9. The assessment has incorrectly and inequitably failed to account for expenses associated with parking revenue and vacancy

As of the date of this hearing, the Complainant confirmed only items #5, regarding lease rate equity and market remain in dispute.

The Board considered the evidence, regarding the subject property, as given in the Complainant's Evidence Submission and as submitted in the hearing as follows:

- (a) An income approach valuation for the subject property dated July 1, 2009, showing an assessed value of \$11,100,000;
- (b) An Assessment Explanation Report based on an market net rental rate for office space of \$14 per square foot, revised in the hearing to \$9,300,000;
- (c) An City of Calgary Assessment Summary Report for the subject property, dated June 16, 2010, noting an assessed value of \$209 per square foot, Class B, constructed in 1982;
- (d) A map showing the location of the subject property;
- (e) Photographs of the subject property;
- (f) A city of Calgary Assessment Summary Report, dated May 27, 2010 for a comparable property located at 1167 Kensington Road NW;
- (g) A map showing the location of the above comparable property;
- (h) A photograph of the above comparable property;
- (i) A summary of recent leases in the subject property, showing a median rate of \$14 per square foot;
- (j) A rent roll for the subject property, dated February 10, 2010, highlighting a lease at \$25 per square foot and six leases at \$14 per square foot;
- (k) Amendments of Lease for the subject property the first dated, November 20, 2009, highlighting the annual rate for a three year period, commencing December 1, 2009 at \$14 per square foot, and the second dated October 7, 2009, highlighting the annual base rent of for a five year period commencing December 1, 2009 at \$14 for years one and two, and \$12, \$13 and \$15 per square foot for each subsequent year respectively;
- (l) A income Approach Valuation giving an assessed value of \$18,430,000, noting a net market of \$19 per square foot, a non-coverable cost of 2%, a vacancy rate of 6%, and a capitalization rate of 8%;
- (m) A city of Calgary Assessment Request for information, highlighting an annual per square foot rental rates of \$18, \$22, \$20 and \$12, and noting an average of \$17;
- (n) A comparable property located at 251 Midpark Boulevard SE, closing date January 18, highlighting an adjusted sale price of \$185 per square foot;
- (o) A City of Calgary Assessment Summary Report for the above comparable property, dated June 16, 2010, noting a assessed value of \$174 per square foot , a Class B quality and 1981 year of construction; and,
- (p) A Master Rent Roll for a comparable building known as the Health Plus Building, highlighting two leases for a three year term, ending March 31, 2012 at \$21 per square foot.

The Board then considered the evidence, regarding the subject property, given in the Respondent's Assessment Brief and as submitted in the hearing as follows:

- (a) Photographs of the subject property
- (b) A map and aerial photograph showing the location of the subject property;
- (c) An Income Approach Manual Calculation showing an assessment of \$11,100,000
- (d) An AltusInSite chart for Class B Calgary Northwest Node showing estimated asking rates in the range of \$18.25 to \$19.68 for the periods Q1 2009 to Q1 2010;
- (e) An inventory of nine Suburban NW Class B office leases located in WN3, SX1 and WN3 showing a median rent rate of \$18.00 per square foot and a median of \$18.44;
- (f) An inventory of seventeen Suburban NW Class B office leases located in CE1, KN1, and FN1 showing a median rent rate of \$21.00 per square foot, and a median of \$20.79;

- (g) A City of Calgary Assessment Request for Information for a comparable property located at 1121 Centre Street NW, noting annual rental rates of \$25 and \$14 per square foot;
- (h) A City of Calgary Assessment Request for Information for a comparable property located at 301-14 Street NW, noting a corrected annual rental rate of \$19 per square foot; and,
- (i) A 2010 Property Assessment Comparable for properties located at 217-16 Avenue NW and 1107-17 Avenue NW, noting both are Class B and have an office market net rental rate of \$17.

No rebuttal was submitted by either the Complainant or the Respondent. Summaries were provided by both the Complainant and Respondent. The Complainant provided final remarks.

Complainant's Requested Value:

As given on page 45 of the Complainant's Evidence Submission, and revised in the hearing: \$9,300,000.

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

In view of the above considerations, the Board finds as follows:

1. The Complainant provided a rate roll for a comparable property showing rental rates higher than that used to assess the subject property;
2. The Complainant provided a sale comparable that was not located in the NW quadrant and was post facto;
3. The Complainant and the Respondent both provided the Assessment Request for Information form the City of Calgary, supporting an office market rental rate of \$17;
4. The Complainant provided no other persuasive information to warrant a reduction;
5. The Board accepts the evidence provided by the Respondent that the median rent rate for Class B office leases in the WN3, SX1 and WN3 market areas is \$18.00, and the mean is \$18.44. Both the mean and median are greater than the net market rent for office space used to calculate the assessment and supports the equity of the assessed value that is based on \$17 per square foot for office space;
6. The Complainant's calculation of suggested assessed value, accepts the Respondent's retail rental rate of \$19 per square foot, vacancy rate of 6%, operating costs at \$12.50 per square foot, non-recoverables at 2% and capitalization rate of 8%; and,
7. The valuation method applied in this instance is the Income Approach. The use of this approach to value is contextually allowed in the legislation. The Complainant did not advance any argument or evidence to support the contention that an error had been made in the application of the Income Approach in preparing this assessment.

Board's Decision:

The assessment is confirmed as follows: \$11,100,000.

DATED AT THE CITY OF CALGARY THIS 27 DAY OF August 2010.



L.R. LOVEN

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.*