

**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:**

***L. Loven, PRESIDING OFFICER***

***R. Roy, 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: 130141252**

**LOCATION ADDRESS: 10325 Bonaventure Drive S.E.**

**HEARING NUMBER: 58986**

**ASSESSMENT: \$ 15,290,000**

This complaint was heard on the 30<sup>th</sup> 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:

- C. Van Staden, representing the Altus Group Limited, on behalf of Willow Park Capital Corp.

Appeared on behalf of the Respondent:

- B. Duban and R. Fegan, representing the City of Calgary

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

The matter regarding the late submission of the Complainant's rebuttal was raised. The Respondent had confirmed their acceptance of the Complainant's rebuttal submission. No other procedural or jurisdictional matters were raised.

**Property Description:**

The subject property consists of a 70,425 square foot four story high rise office and a 6,864 square foot single floor building known as Willow Park Centre located at 10325 Bonaventure Drive S.E. in suburban Calgary, constructed in 1978 and 1979, respectfully. The property is assessed at 31,100 square feet of retail space and 46,189 square feet of office space. The subject has been categorized as a Class B building. The total assessment is \$15,290,000.

**Issues:**

1. Is there a tax exempt portion of the property?
2. Is the assessed office rental in excess of market and inequitable for similarly located low-rise office buildings?
3. Is the vacancy rate used to determine the assessed value too low?
4. Is the capitalization used to determine the assessed value too low?

**Complainant's Requested Value:** \$6,280,000

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

**Issue 1**

Both the Complainant and the Respondent submitted the 2009 rent roll for the subject property. The Complainant argued the rent roll confirmed 36,610 square feet comprising of approximately 18,326 square feet in Suite #200 and 18,284 square feet in #300 is leased to Her Majesty the Queen (Alberta Infrastructure). The Respondent agreed that this lease is an interest held by the Crown in right of Alberta. Under Section 362(1)(a) of the MGA, any interest in property held by the Crown is exempt from taxation; however, regarding calculating a grant in place of taxes under Section 366(3)(g) of the MGA, as the Crown is not the assessed person, the interest held by the Crown must

not be considered as Crown property. The Board subsequently finds, that even though under Section 366(5) of the MGA the Crown may pay a grant in respect of property described in Section 366(3)(g), the Crown instead deems it appropriate to pay taxes.

The photographs and rent roll submitted by both the Complainant and the Respondent confirm there are four floors of space in this building. Both parties agree the total area of the subject property, as shown on the City of Calgary Assessment Summary report, 77,289 square feet, is correct. The Complainant's argument that approximately 17,124 square feet of the subject property is leased as retail space is supported by the rent roll.

Given 36,610 square feet is leased to Her Majesty the Queen (Alberta Infrastructure), who is not the assessed person; correspondence was received by the Board from both the Complainant and the Respondent supporting the reversal of the exemption; and, 17,124 is leased as retail space, the rent roll supports approximately 60,165 square feet of office space is taxable.

## **Issue 2**

The Complainant and the Respondent agreed the assessed rent rate for the retail space is correct.

The Complainant submitted seven equity comparable properties located in the SE quadrant. The properties were valued from \$144 to \$192 per square foot with four valued at \$175 per square foot. The Complainant argued that these comparables supported a rental rate of \$16 per square foot for Class B, SE quadrant office space. The Respondent provided a third party rental rate report showing asking rental rates in the SE quadrant for Class B buildings to in the mid-\$19 for Q2-Q3 2009. The Board recognizes in an open market asking rates are higher than lease rates. The Board finds in its consideration, the above evidence and argument supports the Complainant's requested office rent rate (revised in the hearing from \$15) of \$16 per square foot.

## **Issue 3**

The Complainant submitted third party market reports supporting vacancy rates in the range of 11.1% to 11.8% for the south SE in Q2-Q3. The Complainant further submitted a suburban office vacancy study as of July 1, 2009, for the south showing 505,389 square feet of vacancy for 4,271,739 or approximately 12%. The Respondent argued Quarry Park should not be included in this study. Accepting the Respondent's argument, this reduces the vacancy rate for the south to approximately 9%. This evidence was countered by the Respondent's southwest suburban office study (not including 14 owner occupied or under-re-development properties) of 2,835,919 square feet of assessed are showing 182,579 square feet vacant as of July 1, 2009, giving a median vacancy of 2.66% and a mean of 6.00%; and, a southeast suburban vacancy study of 3,953,735 square feet (not including owner occupied properties) with 243,359 square feet vacant showing a median of 0.00% and a mean of 5.98%, noting this study did not include owner occupied properties. The Board finds the vacancy requested by the Complainant, as revised in the hearing from 12% to 9.5% to be supported of the above evidence.

## **Issue 4**

The Complainant's issue regarding increasing the capitalization rate from the assessed rate of 8% to 9% was withdrawn at the hearing.

In summary, the Board heard no further evidence regarding vacancy short fall or operating costs.

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 these assessments.

### **Board's Decision:**

For the reasons set forth above, and as summarized below, the assessment of the subject property is hereby adjusted as follows: \$13,480,000

	Area (sf)	Rent/Rate	Income	Value
Office	23,555	\$ 16.00	\$ 376,880	
Retail	17,124	\$ 18.00	\$ 308,232	
GOA	36,610	\$ 16.00	\$ 585,760	
Subtotal	77,289		\$ 1,270,872	
Vacancy		9.5%	\$ 120,733	
OC (VS Short Fall)		\$ 12.50	\$ 48,306	
Non Recoverable		2%	\$ 23,003	
Parking	0		\$ -	
NOI			\$ 1,078,830	
Cap Rate		8%	\$ 1,270,872	13,485,376
Assessment				13,480,000

DATED AT THE CITY OF CALGARY THIS 25<sup>th</sup> DAY OF NOVEMBER 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.*