

**REVISED
CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the Calgary Assessment Review Board pursuant to Part11 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, J. MATHIAS
Board Member, R. ROY***

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:	LOCATION ADDRESS:	HEARING NUMBER:	ASSESSMENT:
057201188	1000 CENTRE ST NE	57755	13,050,000

This complaint was heard on 28th day of July, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #9.

Appeared on behalf of the Complainant:

- Doug Hamilton – *Representing Altus Group Inc., as agent for Centre 1000 Capital Corp*

Appeared on behalf of the Respondent:

- Philip Colgate – *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 properties under complaint consist of a 55,017 square foot high-rise office building. The properties is within the Crescent Heights community located in northeast 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 \$7,970,000; 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 assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties;
5. The classification of the subject premise is neither fair, equitable, or correct;
6. The municipality failed to recognize the tax-exempt status of one or more tenants, of the subject property, based on the definitions outlined in Section 362 and 364 of the Municipal Government Act;
7. This Notice is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources; therefore the requested assessment is preliminary in nature and may change;
8. The assessed operating cost allowance applied to the subject property should be increased to \$16 (*per square foot*);

9. The assessed rental rate applied to the subject property should be \$16 (*per square foot*);
10. The assessment has incorrectly and inequitably failed to account for expenses associated with parking revenue and vacancy;
11. The number of taxable parking stalls in the subject property are 82;
12. The assessed vacancy allowance applied to the subject property should be increased to 17% Typical North East;
13. The subject property was assessed using valuation parameters utilized to calculate the assessment of superior properties; and
14. Account for a variety of risk factors the capitalization rate should be increased to 9%

As of the date of this hearing, the Complainant confirmed only items #8, #9 and #13 (with respect to #9) of the above issues remained in dispute. At the hearing the Complainant withdrew #8 regarding operating costs.

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

- (a) A Photograph of the subject property;
- (b) A map showing the location of the subject property on the northeast corner of Centre Street and 9 Avenue;
- (c) The 2010 Property Assessment Notice for the subject property;
- (d) MGB Notice of Decision dated march 10, 2010 confirming the reduction of the 2009 assessment of the subject property, and noting the rental rate reduced to \$18 (*per square foot*);
- (e) An 2009 Assessment Summary Report for the subject property, noting the quality as B and year of construction as 1981;
- (f) An Income Approach calculation for the subject property;
- (g) An Income Approach Valuation dated July 1, 2009, noting rental rates of \$17 and \$19 per square foot for office and retail space versus \$19 and \$22 for the subject property, respectively, photographs and maps for a comparable property located on the northwest corner of 16 Avenue North and Centre Street at 1701 Centre Street NW, and noting this comparable property is in a superior location in the NW on 16 Avenue (*North*);
- (h) An Income approach Valuation, dated July 1, 2008, for the above comparable property, noting rent rates of the subject property are \$2 and \$3 higher for office and retail, respectively;
- (i) A rent roll for the subject property dated January 1, 2010;
- (j) An Altus report regarding the subject property, noting negative financial issues relating to tenant charge back exceeding \$14 per square foot, operating costs recovery shortfall, and non-profit societies or service clubs eligible for property tax exemptions;
- (k) An email regarding a renewal transaction, commencing January 1, 2010, for 6,039 square feet at \$5 per square foot, noting it is a retail lease located at 1121 Centre Street (*North*);
- (l) An email regarding a renewal transaction , commencing September 1, 2009 for 915.4 square feet at the subject property, noting two underground and one surface parking stalls are included;
- (m) An Income Approach Calculation giving a suggested assessed value, revised at the hearing to \$11,590,000 calculated as follows;

	Area (sf)	Rent/Rate	Income	Value
Office	48495	\$ 18.00	\$ 872,910	
Retail	6522	\$ 10.00	\$ 65,220	
Subtotal	55,017		\$ 938,130	
Vacancy		6%	\$ 56,288	
OC (VS Short Fall)		\$ 12.50	\$ 41,263	
Non Recoverable		2%	\$ 17,637	
Parking	87	\$ 1,200.00	\$ 104,400	
NOI			\$ 927,343	
Cap Rate		8%		11,591,783
Assessment				11,590,000

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

- Photographs of the subject property
- A map and aerial photograph showing the location of the subject property;
- An Income Approach Manual Calculation showing an assessment of \$33,051,000
- An Income Approach Valuation, dated July 1, 2009 for 3,754 square feet of exempt office space in the subject property, showing a valuation of 786,000 valuation;
- A 2010 Application for Property and Business Tax Exemption for 3,754 square feet of space in the subject property;
- A 2009 Income Approach Valuation compared to a 2009 Property Assessment Explanation Supplement for the subject property, noting a net rental rate of \$25 and \$28 per square foot respectively.
- A B-Class Suburban Office survey of leases in the CEI, FN1, UN1 and KN1 market areas, noting a mean of \$20.79 per square
- A NW B-Class Office survey of nine lease located in WN3 and SXI Market areas, noting a median of \$18.00 per square foot;
- A NW Retail B-Class survey of five leases located in KN1, noting an average of 21.95 per square foot;
- An Altus Average Rental Rates survey for B-Class office buildings in the NW quadrant, noting and asking rate in the range of \$19.00 per square foot;

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 revised on page 3 of the Complainant's Evidence Submission: \$8,680,000, and as further revised above.

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

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

- The Complainant provided one 915.4 square foot retail renewal lease (Renovations Spa for Men) in the subject property, commencing September 1, 2009 for a five year term at

- \$17 per square foot for year one and \$20 per square foot for years two to five, and at 6,039 square foot retail renewal lease (Mykonos Greek Restaurant) in a property located across Centre Street from the subject property for a five year term commencing January 1, 2010 for \$5 per square foot, plus a percentage rent. It is noted that the lease for Mykonos Greek Restaurant dated post facto, and the Complainant provided no other persuasive information to warrant a reduction;
2. Regarding the property located at 1701 Center Street NW, cited by the Complainant was superior in location to the subject property and having lower assessed rental rates by \$2 and \$3 for office and retail space respectively, the comparable property is located in the NW quadrant and SE1 market area, where as the subject property is located in the N quadrant and CE1 market area. Accordingly, the Board places less weight on this comparable.
 3. At the direction of the Complainant, the Board gave no consideration to the Complainant's evidence regarding equity;
 4. The Board accepts the evidence provided by the Respondent that the median rent rate for Class B office leases in the CE1, FN1, UN1 and KN1 market areas is \$21.00, and the mean is \$20.79. 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 \$19 per square foot;
 5. The Board accepts the evidence provided by the Respondent that the median rent rate for Class B retail leases in the CE1, FN1, UN1 and KN1 market areas is \$22.75, and the mean is \$21.95. Both are higher than the net market rent for retail space used to calculate the assessment and supports the equity of the assessed value that is based on \$22 per square foot;
 6. In the Complainant's calculation of suggested assessed value, summarized above, accepts the Respondent's vacancy rate of 6%, operating costs at \$12.50 per square foot, non-recoverables at 2% and capitalization rate of 8%;
 7. Regarding the Complainant's requested reduction of \$670,000, the Respondent provided evidence of a 2010 application for property and business tax exemption, dated August 17, 2010. The board notes this date is after the application deadline of June 30, 2009, and further notes this requested reduction was not included in the Complainant's calculation of suggested assessed value given above.
 8. 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: \$13,050,000.

DATED AT THE CITY OF CALGARY THIS 20th DAY OF AUGUST 2010.



L.R. LOVEN
Presiding Officer

CC: Owner

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.*