

**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, J. MATHIAS  
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:

<b>ROLL NUMBER:</b>	<b>LOCATION ADDRESS:</b>	<b>HEARING NUMBER:</b>	<b>ASSESSMENT:</b>
<b>009004193</b>	<b>6715 8 ST NE</b>	<b>57598</b>	<b>38,270,000</b>

This complaint was heard on 28<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:

- Doug Hamilton – *Representing Altus Group Inc., as agent for Sun Life Assurance Company of Canada*

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 property under complaint consists of a 162,311 square foot suburban office building. The property is within the Deerfoot Business Centre community located in northeast Calgary.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint forms: 3, assessment amount; and 4, assessment class.

The Complainant, in section 5 of the Complaint forms, requested a preliminary assessment of \$18,120,000; 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 in excess of its market value for assessment purposes;
5. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties;
6. The classification of the subject premise is neither fair, equitable, or correct;
7. The information requested from the municipality was pursuant to Section 299 or 300 of the Municipal Government Act was not provided;
8. 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;

9. 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;
10. Account for a variety of risk factors the capitalization rate should be increased to 9%;
11. The assessed rental rate applied to the subject property should be \$15 (*per square foot*);
12. The assessed vacancy allowance applied to the subject property should be increased to 17%;
13. The assessment has neglected to account for various elements of obsolescence;
14. The significance of deferred capital costs is not adequately reflected in assessed value;
15. The subject property was assessed using valuation parameters utilized to calculate the assessment of superior properties;
16. The assessment has incorrectly and inequitably failed to account for expenses associated with parking revenue and vacancy; and,
17. This property reflects a Double Taxation as the value of this parcel has already been captured in the assessment of the parent parcel.

As of the date of this hearing, the Complainant confirmed only the following issues of those listed above, remained in dispute: #11, amended to \$18 per square foot in the Complainant's evidence; #12 respecting vacancy in the NE; and, higher property tax (not listed in the above grounds for appeal). At the hearing the Complainant withdrew the following issues: #4, above; and, #10 above, regarding capitalization rate; and, parking rental rate, not listed above.

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) Maps and drawings showing the location of the subject property in the Deerfoot Business Centre in the NE quadrant;
- (b) Photographs of the subject property;
- (c) The 2010 Property Assessment Notice and Assessment Summary Report for the subject property;
- (d) An Income Approach Valuation, dated July 1, 2009 for the subject property, noting acceptance of 142 parking stalls at \$1,200 per annum each, 1,256 square feet of office recreational space at \$9 per square foot, and 1,636 square feet of retail space at \$20 per square foot, noting the net market rental rate for office space should be \$18 per square foot and the vacancy rate should be 15%;
- (e) A lease commencing August 1, 2009 with the Canadian Cattle Identification Agency (CCIA) for 3,380 square feet for a six month term;
- (f) A Bentall documentation summary sheet for a 2,046 square foot lease with Key Energy Transport LP for a five year term at \$23 per square foot for years 1-2, \$24 for year 3 and \$25 for years 4-5. The Complainant noted a net effective rent of \$16.63, which less than assessed office rate of \$20 per square foot, and the requested rate of \$18 per square foot, 4 parking stalls at \$75 each per month and landlord work limited to \$10 per square foot;
- (g) Eleven equity comparables, all located in the NE quadrant: one in the Deerfoot Business Center at 1020-64 Avenue; three in Horizon at 2735-39 Avenue, 2723-37 Avenue, and 2635-37 Avenue; five in South Airways at 2924-11 Street, 1538-25 Avenue, 3225-12

Street, 2116-27 Avenue, 3115-12 Street; one in Mayland at 222-23 Street; and, one in Franklin at 3030-3 Avenue. The complainant noted the assessed rate for the subject property is \$236, versus the comparable properties' average of \$165 and median of \$164;

- (h) Photographs and Assessment Summary Reports for the above comparable properties, noting the Safeway property located at 1020-64 Avenue NE assessed at market net rental rate of \$18 per square foot rent resulting in an assessed value of \$187 per square foot, and referencing photographs of the subject property;
- (i) Nineteen leases for properties located in the NE quadrant, three at 3115-12 Street, two at 2816-11 Street, one at 2116-27 Avenue, five at 2723-37 Avenue, and six at 3015-12 St, noting a base rent in the range of \$11 to \$18 per square foot;
- (j) Seven third party vacancy reports showing vacancy for the suburban north and northeast office ranging from 13.65% to 20%, noting the request vacancy rate is 15%;
- (k) Income Approach Calculation, revised at the hearing using \$1,200 per year per parking stall, \$9 per square foot net rent for the recreation space, \$20 per square foot net rent for the retail space, varying the operating costs of \$13.75 and using a capitalization rate of 7.5%, recalculated and summarized below;

	Area (sf)	Rent/Rate	Income	Value
Office	159419	\$ 18.00	\$ 2,869,542	
Rec	1256	\$ 9.00	\$ 11,304	
Retail	1636	\$ 20.00	\$ 32,720	
<b>Subtotal</b>	<b>162,311</b>		<b>\$ 2,913,566</b>	
<b>Vacancy (-)</b>	<b>0</b>	<b>15%</b>	<b>\$ 437,035</b>	
<b>OC (VS Short Fall)(-)</b>		<b>\$ 13.75</b>	<b>\$ 334,766</b>	
<b>Non Recoverable (-)</b>		<b>2%</b>	<b>\$ 49,531</b>	
<b>Parking (+)</b>	<b>142</b>	<b>\$ 1,200.00</b>	<b>\$ 170,400</b>	
<b>NOI</b>			<b>\$ 2,262,634</b>	
<b>Cap Rate</b>		<b>7.5%</b>		<b>\$30,168,454</b>
<b>Assessment</b>				<b>\$30,160,000</b>

- (l) Operating costs as given on the rent roll , were noted ranging from \$8.77 per square foot to \$9.78 per square foot and property tax at \$3.73 per square foot;
- (m) Seven leases located at 2723-37 Avenue NE in a B (or C+) call building within Horizon Community in C+ class property showing an average net rent rate of \$13 per square foot and a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (n) Eight leases located at 2611-37 Avenue NE in a B class building within the Horizon community showing an average net rent rate of \$15.25 per square foot, and a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (o) Eight leases located at 2635-37 Avenue NE in a B class building within the Horizon community showing an average net rent rate of \$15.25 per square foot, and a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (p) Six leases located at 3115-12 Street NE in a B class building within the South Airways community showing an average net rent rate of \$18.30 per square foot, and a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (q) Six leases located at 3015-12 Street NE in a C+ class building within the South Airways community showing an average net rent rate of \$12.75 per square foot, and a 2010 property assessment comparable showing a assessed rent rate of \$14 per square foot;

- (r) Four leases located at 2816-11 Street NE in a B class building within the South Airways community showing an average net rent rate of \$14.75 per square foot, and a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (s) No leases located at 2914-11 Street NE in a B class building showing a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (t) One lease located at 2816-11 Street NE in a B class building within the South Airways community showing an average net rent rate of \$13 per square foot, and a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (u) No leases located at 1538-25 Avenue NE in a B class building showing a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (v) No leases located at 3030-3 Avenue NE in a B class building showing a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;
- (w) No leases located at 222-23 Street-3 NE in a B class building showing a 2010 property assessment comparable showing a assessed rent rate of \$18 per square foot;

The Board then considered the evidence, regarding the subject property, given in the Complainant'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) A 2010 Property Assessment and an Income Approach Valuation showing an assessment of \$ 38,270,000;
- (d) An Assessment Request for Information for the subject property, noting operating at \$10.77 per square foot;
- (e) A table of 2010 suburban Calgary office net rental, operating cost and non-recoverable, showing operating costs at \$12.50 per square foot;
- (f) MGB Board Order 083/08, noting property taxes are not included in the operating expenses when calculating assessed value for tax purposes;
- (g) Two leases in the subject property, noting one lease rent rate at \$24 per square foot is greater than the assessed rent rate of \$20 per square foot;
- (h) Thirty leases in suburban NE noting average rent rates of \$20.60 per square foot for 2009 and \$20.16 for 2008;
- (i) 2010 Property Assessment Comparables for Class A2 buildings located at 6815-8 Street NE and 4311-12 Street;
- (j) An AltusInSite Average Rental Rates survey for Calgary NE node, noting estimated asking face rate in the ranging from \$21.97 for Q1 2009 to \$21.83 for Q1 2010;
- (k) Because the Complainant withdrew the issues of capitalization and parking rates, the Respondent did not present its evidence respecting these issues;
- (l) A 2010 suburban office vacancy study for 72 properties the NE quadrant(excluding fourteen owner occupied buildings, one new building, nineteen buildings with incomplete ARFIs) and showing a median vacancy of 0% and mean vacancy of 8.6% and an assessed vacancy of 9%;
- (m) ARB 0502/2010-P decision, confirming based on the evidence presented, operating expenses at \$12.50 per square foot;
- (n) ARB 0503/2010-P decision, confirming based on the evidence presented, operating expenses at \$12.50 per square foot;
- (o) A 2010 Property Assessment Comparable for an owner occupied building (Canada Safeway) located at 1020-64 Avenue NE, noting it is a Class B building assessed at \$18 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 further revised at the hearing (based page 117 of the Complainant's evidence submission), and as summarized above, to: \$30,160,000.

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

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

1. The Board accepts the evidence of the Respondent that, for the purposes of assessment property tax is not included in operating costs, the \$12.50 per square foot rate used to determine the assessed value of the subject property was applied equitably and applied to the subject property and the Complainant provided no other persuasive information to support an increase in operating costs;
2. Third party reports of vacancy for Class A office space in the NE quadrant, submitted by the Complainant, ranged by about 15% depending on the annual quarter, quadrant, inventory and whether or not it included sub-lease office space, whereas the suburban NE office vacancy market provided by the Respondent of supported the vacancy rate of 9% for the suburban NE office market;
3. The base rent rates for comparable leases submitted by the Complainant in the NE quadrant were mostly for Class B properties all assessed at \$18 per square foot, with a few Class C+ properties, whereas the evidence provided by the Respondent supports the average rent rate for Class A2 office leases in the NE of \$20.60, greater than the net market rent used to calculate the assessment;
4. Regarding the property located at 1020-64 Avenue NE, cited by the Complainant to having lower assessed rental rates by \$2 for office space, the comparable property is Class B, whereas the subject property is Class A2. The Board heard no evidence regarding the similarities of the properties, accordingly the Board places less weight on this comparable;
5. 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:**

The assessment is confirmed as follows: \$38,270,000.

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.*