

**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:

Steven C. Kashuba, PRESIDING OFFICER

R. Deschaine, MEMBER

R. Cochrane, 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: 070027800

LOCATION ADDRESS: 1930 Maynard Rd SE

HEARING NUMBER: 56301

ASSESSMENT: \$30,950,000

This complaint was heard on 5th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- *C. Van Staden*

Appeared on behalf of the Respondent:

- *C. Neal*

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

No procedural or jurisdictional matters presented.

Property Description:

Constructed in 1965, the subject property is located at 1930 Maynard Rd SE and is zoned as I-G, Industrial – General. This location is in the SE Calgary quadrant, in the Mayland Industrial Park subdivision which caters to multi-tenants. The building contains a total gross floor area of 154,812 square feet, including approximately 20,326 square feet of office space on one floor and approximately 2,300 square feet of mezzanine storage space. The major tenants are Bell Canada, Siemens Canada, Q9 Networks, and Ledcor Developments. The current assessment is set at \$30,950,000.

Issues:

1. Is the subject property correctly assessed as an office/warehouse?
2. Is the subject property assessed fairly and equitably?

Complainant's Requested Value: \$20,020,000

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

Issue #1: Is the property correctly assessed as an office/warehouse?

Position of Complainant

At issue is the Respondent's characterization of the subject property's lease space in their pro-forma (1-R, page 21) as *warehouse* space. In the opinion of the Complainant the Respondent's application of a lease rate of \$18 per square foot is more correctly applied to *office lease space* and not *warehouse space*, as is the case here.

In support of their request to correct the designation to warehouse space and to apply a more correct rental amount per square foot, the Complainant presented the Respondent's Assessment Summary Report (1-C, page 18) which listed the property as being *CS1835 Office/Warehouse*.

Position of Respondent

It is the position of the Respondent that the subject property does exhibit the attributes of an office. In support of this position, the Respondent presented a series of photographs (1-R, pages 39 – 46) taken of the interior of the complex. From these photographs and the ARFI Forms, the Respondent takes the position that the subject constitutes office space.

Decision of the board as regards Issue #1

In the absence of any definitive evidence from the Complainant to the contrary, which would prove that a designation of office space to the subject property is incorrect, the board places considerable weight upon the evidence presented by the Respondent in way of photographs which show the interior space to be finished in a manner associated with office space.

Issue #2: Is the subject property assessed fairly and equitably?**Position of Complainant**

It is the position of the Complainant that the increase in the assessment amount from \$10,660,000 in 2009 to \$30,950,000 in 2010 is excessive. In support of this position, the Complainant presented five sales comparables, one of which is the subject property. The TASP per square foot for the subject property, which sold on September 03, 2008, is \$223.37 per square foot while, in contrast, the five sales reflect an average of \$134.32 per square foot (1-C, page 14).

As for equity comparables, the Complainant presented seven assessments of like properties (1-C, page 14). The comparables are newer, some are single tenant, the wall height is higher than the subject, the site coverage is lower in most, and the percentage of finish is similar to that of the subject property. Despite this analogy, the comparables are all assessed at values lower than is the subject property.

Finally, the subject property is assessed by using the income approach, with a rent rate significantly higher than that achieved in the subject building. In this regard, the lease rates for four of the tenants are presented on page 20 of 1-C, which show that a lease rate for the major tenant (Bell Canada) was signed on July 1, 2009 for \$20.27 per square foot, while a lease by Q9 Network was signed on September 1, 2006 for \$10 a square foot, by Siemens Canada on December 1, 2005 at \$11.40 per square foot, and Ledcor Construction Limited on June 1, 2005 for \$10.50 per square foot. These leases all support a reduction in the assessment of the subject property.

Position of Respondent

Using an income approach to valuation, the Respondent assessed the subject property's 153,219 square feet of warehouse space at a rate of \$18 per square foot, a vacancy allowance of 9.0%, and a capitalization rate of 7.5% to arrive at an assessed value of \$30,950,000. In support of the assessment, the Respondent presented an Assessment Request for Information from the Complainant which indicates a NIL vacant area, and lease rates per square foot ranging from a low of \$10 per square foot for Q9 Networks to a high of \$19.67 for its major client, Bell Canada.

The subject property sold for \$36,400,000 on September 3, 2008, which is a good indicator of its market value and does support the assessment. The Respondent presented four equity comparables (1-R, page 36), two of which are in the SE quadrant of the City while two are in the NE

quadrant, all of which have an NARV of \$18 per square foot. In addition, the Respondent presented five lease comparables wherein the lease rates range from \$14.24 per square foot to \$25.00 per square foot. Three of the comparables are in the SE quadrant of the City while two are in the NE quadrant. All of the comparables are classified as office space as is the subject property (R-1, page 37). However, these comparables all go to lease rates of offices whereas the board notes that the representation within the Respondent's pro-forma (R-1, page 21) classifies the leasable space of 153,219 is listed as being *warehouse*. This does raise the question as to whether this space is rightfully classified and, if not, did the Respondent apply the correct lease rate?

To support a request for confirmation, the Respondent presented two recent CARB decisions (1-R, pages 51 – 60) which dealt with issues similar to this complaint.

Board decision as regards Issue #2

In examining the leases for the subject property, the board relies upon the major lessee, Bell Canada, which on July 1, 2009 signed a lease in excess of \$20 per square foot. Less weight is placed upon the other three leases in that the special circumstances attached to each, as reflected in the Comments column (1-C, page 20) would indicate that these were not consummated at market rent rates.

Board's Decision:


It is the decision of the board to confirm the assessment of the subject property for 2010 at \$30,950,000.

Reasons:

The board accepts the evidence submitted by the Respondent that the quality of the interior finish of the subject property would indicate that it is office space and that the rental rate applied in the income stream does reflect this characterization. The board also notes that the Complainant failed to present any evidence to the contrary.

As for the issue of fairness and equity, the board places considerable weight upon the sale of the subject property which, although it occurred in the year prior to the valuation year, does reflect market value in the current year. Further to this, it must be noted that the current assessment is considerably lower than is the sale price of the subject property which, according to the agreement of both parties, occurred at arm's length.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF August 2010.


Steven C. Kashuba
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.*