

**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: 123189292

LOCATION ADDRESS: 8500 Macleod Trail SE

HEARING NUMBER: 59729

ASSESSMENT: \$ 79,360,000

This complaint was heard on the 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:

- *D. Chabot and D. Mewha*

Appeared on behalf of the Respondent:

- *B. Duban and R. Fegan*

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

No procedural or jurisdictional matters were presented.

Property Description:

The subject commercial property, located in the Acadia subdivision at 8500 Macleod Trail, is considered to be within a commercial corridor. The building consists of 322,980 square feet of office space served by 616 parking stalls. Constructed in 1979, the 5-storey building has a net rentable space of 298,081 square feet, including about 13,000 square feet of ground floor retail space with a typical floor plate of approximately 60,000 square feet. The land use designation is governed by Direct Control Bylaw 765 which specifically permits the development of comprehensively designed office, retail, and recreational development, and associated commercial uses. The current assessment is \$79,360,000.

Issues:

1. The vacancy rate allowance should be increased from 6% to 9.5%.
2. The rental rate should be decreased from \$20 per square foot to \$18 per square foot.

Complainant's Requested Value: \$67,920,000.

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

1. **Vacancy rate issue.**

Position of Complainant

The Complainant requested a vacancy allowance rate of 9.5% and applied this percentage to their cash flow as presented in their pro-forma (1-C, page 14) through which a request for a reduction in the assessment amount is being sought.

In support of this position the Complainant relied on the Avison Young Calgary Office Market Report – Second Quarter 2009 which stated that *vacancy rates are expected to rise for at least the next 18 months...with City-wide office vacancy being at 9.3%...* The report goes on to say that *the vacancy rate for the Suburban South is 9.3%, up from 7% at the first quarter of 2009 and 3.2% from one year ago.* The Complainant further supported their position through another independent third party report as presented by CB Richard Ellis.

Finally, the Complainant presented three recent CARB decisions which dealt with a similar complaints (ARB 0505/2010-P, ARB 0629/2010-P, and ARB 0790/2010-P), wherein their decisions supported the Complainant's request for a vacancy rate allowance of 9.5%.

Position of Respondent

The Respondent, in their pro-forma (1-R, page 26), applied a vacancy rate allowance of 6%. In support of this percentage, the Respondent relied upon information gleaned from the 2010 City of Calgary Southeast Suburban Office Vacancy Study which presents a mean vacancy rate of 5.98%. In addition, the Respondent presented a 2010 City of Calgary Southwest Suburban Office Vacancy Study which presents a mean vacancy rate of 8.12%. To further support their use of a 6% vacancy rate, the Respondent referred to the Complainant's submission of the Assessment Request for Information Form which indicated a Total Vacant Area of 4,416 square feet out of a total of 315,442 square feet of space (1-R, page 18).

Findings and Decision of board

As regards the application of an appropriate vacancy rate allowance, the board places considerable weight upon the position as presented by the Complainant. Their request for a 9.5% allowance is supported through two independent third party reports as well as three decisions of CARB boards which dealt with similar issues in the same quadrant of the City and concluded that the application of a 9.5% vacancy allowance was appropriate.

2. Rental rate issue

Position of Complainant

In support of their request for a reduction in the rental rate, the Complainant submitted that the MGB, in an appeal of the 2009 assessment, reduced the rental rate from \$22 per square foot to \$19 per square foot, arguing that the marketplace has had a cooling effect upon rental rates over the past year and that the current rental rate should not be any higher than that in 2009. To further support their position, the Complainant submitted 19 lease rates within the subject property where, on average, the lease rate is \$17.84 per square foot.

Within the current assessment as presented in their pro-forma, the Respondent valued office recreational space at \$9 per square foot, as well as the office space below grade at \$9 per square foot. Neither of these values is at issue. However, at issue is the office retail space of 12,381 square feet and the office space southwest, both of which are valued by the Respondent at \$20 per square foot while the Complainant is requesting \$18 per square foot. By applying the \$18 per square foot value and a vacancy allowance of 9.5% as opposed to the 6.0% in their pro-forma, the Complainant arrives at an assessment value of \$67,927,000 (1-C, page 14).

To support the requested value of \$18 per square foot, the Complainant presented one comparable property at 5920 Macleod Trail which has 185,933 square feet of office space assessed (1-C, page 28).

Position of Respondent

In support of their application of a rental rate of \$20 per square foot, the Respondent presented a 2010 Calgary Suburban Office Net Rental Rates, Operating Costs, and Non-Recoverable Chart which reflect, for Class A offices in SE Calgary, rental rates ranging from \$18.50 to \$25.00 per square foot while offices of a similar category in SW Calgary command rates ranging from \$22.00 to \$25.00 per square foot.

To further support the rental rate of \$20 per square foot, the Respondent presented a lease rate for a similar commercial development located at 5920 Macleod Trail which, even though classified as a B quality building, had lease rates of \$24, \$19, and \$21 per square foot (1-R, page 35). As well, a commercial property at 6700 Macleod Trail (R-1, page 37) had lease rates of \$25 per square foot. Finally, the Respondent presented a list of Class A buildings in SE Calgary (R-1, page 38) which, on average, had lease rates in excess of \$21 per square foot.

Findings and Decision of board

The board places little weight upon the Complainant's argument in their support for a reduction in the lease rate from \$20 per square foot to \$18 per square foot in that only one comparable, located at 5920 Macleod Trail, is provided. Although it may be true that the lease rate in this commercial development is \$18 per square foot, it does not necessarily follow that the lease rate for South Calgary, from a mass appraisal technique, can be supported at this level. Additionally, a lease rate of \$17.84 as presented in the Complainant's spreadsheet showing the individual leases in the subject property, cannot be likened to average lease rates in South Calgary.

In contrast, the board places considerable weight upon the Respondent's submission which shows that a lease rate of \$20 per square foot in South Calgary is supported.

Board's Decision:

It is the decision of the board to reduce the assessment of the subject property for 2010 from \$79,360,000 to \$76,580,000.

Reasons:

The board accepts the Complainant's argument that a vacancy rate allowance of 9.5% for South Calgary for the current year is reflective of what is happening in the marketplace and should be applied to the income stream of the subject property. As for the application of an appropriate rental rate per square foot, the board accepts the Respondent's submission that a rental rate of \$20 per square foot is supported in the South Calgary marketplace. As a result, the board applies a vacancy rate allowance of 9.5% to the income stream but confirms the application of a rental rate of \$20 per square foot.

DATED AT THE CITY OF CALGARY THIS 24th 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.*