

**CITY OF CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of a complaint filed with the City of Calgary Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta 2000 (the Act).

BETWEEN:

Altus Group, COMPLAINANT

and

The City Of Calgary, RESPONDENT

BEFORE:

J. Krysa, PRESIDING OFFICER

A. Zindler, MEMBER

S. Rourke, MEMBER

A hearing was convened on July 8, 2010 in Boardroom 8 at the office of the Assessment Review Board, located at 1212 - 31 Avenue NE, Calgary, Alberta in respect of the property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	009020900
LOCATION ADDRESS:	7315 8 Street NE
HEARING NUMBER:	57605
ASSESSMENT:	\$4,610,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 84,499 square foot (sq.ft.) parcel of I-B land, improved with a two storey office building constructed in 1999, containing a total of 19,390 sq.ft. plus a 5,010 sq.ft. basement area, and paved surface parking.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The Assessment Review Board derives its authority under Part 11 of the Act. No specific jurisdictional or procedural matters were raised during the course of the hearing.

PART C: MATTERS / ISSUES

The Complainant raised the following matters in section 4 of the complaint form:

3. an assessment amount
4. an assessment class

At the commencement of the hearing, the Complainant withdrew matter 4, and indicated that the evidence and submissions would only apply to matter number 3, an assessment amount. The Complainant set out 15 grounds for the complaint in Section 5 of the Complaint form, however, the Complainant stated only the following issues, condensed from the grounds in Section 5 of the complaint form were in dispute:

Issue 1: A 9% "market" vacancy rate for northeast suburban offices is too low

Issue 2: A 25% vacancy rate would be appropriate for the subject; 100% vacant for 11 months

Issue 3: Value of basement storage / fitness area is included in main office rent rate; the space generates no additional income to the owner

Issue 4: The subject's state and condition (100% vacancy) as of December 31, 2009 would be properly reflected with an assessment of \$2,780,000.

The Complainant submits that a correct, and fair and equitable assessment is \$2,780,000.

Issue 1: A 9% "market" vacancy rate for northeast suburban offices is too low

The Complainant submitted rent rolls for the subject property as of July 1, 2008 and December 1, 2009, to demonstrate that the 10 year lease of the sole tenant of the property expired on June 30, 2009, and that the property was now 100% vacant. Also submitted were several third party, 2009 office market reports indicating that the suburban NE office market vacancy rate was greater than the 9% allowance awarded in the assessment calculation [Exhibit C1 pgs 19-77], as well as an (unaccepted) offer to lease the premises dated October 16, 2009.

The Respondent submitted a NE Quadrant Suburban Office Vacancy Study of 72 properties exhibiting an average vacancy rate of 8.6% [Exhibit R1 pg 43]; and 3 "A" quality office equity comparables to demonstrate that a 9% vacancy allowance has been equitably applied [R1 pgs 36-38].

Through rebuttal, the Complainant brought forward a number of issues with respect to the Respondent's vacancy study, many of which were minor area revisions. The Complainant also provided evidence of (industrial office) structures which were thought to be inappropriately included in the study, and several properties which were argued, ought to have been included in

the study but were not; the most notable being the Medallion Centre, a new 180,000 sq.ft. office building with 160,000+ sq.ft. of vacant space. In amending the Respondent's vacancy study to reflect the changes, the Complainant arrived at a NE suburban office vacancy rate of 13.8%.

Decision: Issue 1

The Board finds that the typical NE Calgary suburban office market vacancy rate as of the valuation date of July 01, 2009 is 14%.

The Board accepts the Respondent's vacancy study as amended by the Complainant's rebuttal evidence. The Respondent's position that the Medallion Centre was excluded from the vacancy study because it was incomplete as of the valuation date was not accepted by the Board. The Assessor's Request For Information (ARFI) form and the City's building permit evidence confirms that leases were signed, and tenant improvements (interior alterations) were underway as early as the spring of 2009. The vacant space existed and it was available on July 1, 2009.

With respect to the issue regarding the appropriate boundaries for the NE quadrant vacancy study, the Board found the Respondent's approach to be inconsistent in that some properties with SE addresses were included in the NE study, and some properties with NE addresses were excluded from the NE study. Also, the Respondent's comment that some properties within the NE study area were excluded from the NE study for 2010, because they "fit better" in another quadrant was of concern to the Board with respect to the legislated mass appraisal requirements.

Issue 2: A 25% vacancy rate would be appropriate for the subject; 100% vacant for 11 months

The Complainant submitted that as the subject property has been vacant for 11 months (at the time of the disclosure of evidence for the hearing), an adjustment to the market vacancy allowance would be appropriate to reflect the specific and chronic vacancy of the subject.

The Respondent argued that as the tenant's 10 year lease expired on June 30, 2009, and the effective date of valuation for the assessment is July 1, 2009, the subject property was 100% vacant for less than one full day.

Decision: Issue 2

The Board finds that a typical market vacancy allowance is appropriate in the valuation of the subject property. As this property has enjoyed 100% occupancy for the last 10 years to the valuation date, there is no valid reason to provide an increased vacancy allowance.

Issue 3: Value of basement storage / fitness area is included in main office rent rate; the space generates no additional income to the owner

Decision- Issue 3

The Board finds that the basement area is an "improvement" as defined in s.284(1)(j) of the Act, and pursuant to s.291(1) of the Act, an assessment must be prepared for the area.

Although there may be instances where a basement area does not attract a separate lease rate but is included in the rental rate applied to the main and upper floor areas, for the purposes of property assessment an allocation of a rental rate consistent with the use of the space seems to be a reasonable approach to equitably distinguish those properties with basement space, from those properties without.

As there was no evidence submitted to the Board regarding typical market lease rates for basement storage areas, the Board finds that a \$6.00 per sq.ft. market rent rate is appropriate for the 2,698 sq.ft. finished area of the fitness room, and a \$3.00 per sq.ft. market rent rate is appropriate for the 2,312 sq.ft. unfinished basement storage area.

Issue 4: The subject's state and condition (100% vacant) as of December 31, 2009 would be properly reflected with an assessment of \$2,780,000.

Decision: Issue 4

The Board does not accept the Complainant's interpretation of "characteristics and physical condition" set out in the *Municipal Government Act*, s.289(2), as equating to "state and condition" with respect to vacancy.

The Board finds the Complainant's position that the subject's state and condition (100% vacant) as at the December 31 "condition date" is not appropriate in the calculation of an assessment at market value. As an assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year, vacancy rates that reflect typical market conditions as of July 1 are fundamental. There was no evidence provided to the Board that the characteristics and physical condition of the property had changed between July 1 (the valuation date), and December 31 (the characteristics and physical condition date) to warrant an adjusted July 1 market vacancy rate specific to the subject property.

PART D: FINAL DECISION

The assessment is revised from \$ 4,610,000 to \$ 4,040,000.

Dated at the City of Calgary in the Province of Alberta, this 12 day of August, 2010



J. Krysa
Presiding Officer

APPENDIX "A"**DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

NO.	ITEM
1.	Exhibit C1 Complainant's Evidence Submission
2.	Exhibit R1 Respondent's Assessment Brief
3.	Exhibit C2 Complainant's Rebuttal
4.	Exhibit C3 Complainant's Addenda "A" – 2009 Cap Rates

APPENDIX 'B'**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. B. Ryan	Representative of the Complainant
2. P. Colgate	Representative of the Respondent

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.*