

**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 7, 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:	009023102
LOCATION ADDRESS:	7236 10 Street NE
HEARING NUMBER:	59045
ASSESSMENT:	\$8,110,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 127,018 square foot (sq.ft.) parcel of I-G land, improved with a single tenant industrial office/warehouse constructed in 1999, containing a total of 36,428 sq.ft., comprised of 10,830 sq.ft. of office space and 25,550 sq.ft. of laboratory/manufacturing area +/-.

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 14 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: The subject is incorrectly classified and assessed as a suburban office; it should be classified and assessed as an industrial office/warehouse.
- Issue 2: Equity: the subject is not assessed equitably with like and similar properties.
- Issue 3: The assessment reflects a market rent in excess of current contract rent.
- Issue 4: The Municipal Government Board has addressed this exact concern in a 2009 decision.

The Complainant submits that a correct, and fair and equitable assessment is \$6,860,000.

Issue 1: The subject is incorrectly classified and assessed as a suburban office; it should be classified and assessed as an industrial office/warehouse.

The Complainant submitted photographs and details of the building characteristics to demonstrate that the improvement is not appropriately stratified for mass appraisal purposes.

The Respondent conceded that the subject was incorrectly classified and valued as a suburban office rather than as an Industrial office/warehouse. As a result, a recommendation to correct the assessment to the amount of \$7,350,000 was proposed to the Board, arrived at by valuing the subject based on an \$18.00 net rent rate, consistent with the Complainant's original request on page 3 of exhibit C1.

Decision: Issue 1

The Board accepts that the subject is an industrial office/warehouse as agreed to by the parties.

Issue 2: Equity: the subject is not assessed equitably with like and similar properties.

The Complainant submitted an analysis of 4 comparable properties that indicated a median assessment of \$189 per sq.ft. and a median net rent rate of \$16.88 per sq.ft. Those rates, applied to the area of the subject property results in a value of \$6,860,000 [Exhibit C1 pg 17].

The Respondent provided several comparable properties that were assessed using an \$18.00 net rent rate to demonstrate that the recommended assessed value of \$7,350,000 was fair and equitable with similar competing properties [Exhibit R1 pgs 24-31].

Decision: Issue 2

The Board finds that the Respondent's recommended assessment represents a value that is fair and equitable with other similar and competing properties.

The Complainant's calculation of a median unit value to be applied to the subject was rejected by the Board as comparables 3 and 4 in the analysis were dissimilar to the subject, being class B and A2, respectively. The Board noted that the first two comparables, both classed A+ as is the subject, were valued using an \$18.00 net rent rate.

Issue 3: The assessment reflects a market rent in excess of current contract rent.

The Complainant provided the subject's current lease contract information of a 10 year single tenant lease commencing September 1, 2000, and expiring August 31, 2010 at a rate of \$16.98 per sq.ft., as well as information of a tentative 1 year lease extension at \$16.00 per sq.ft. [C1 pgs 55-56]

The Respondent submitted an analysis of 5 leases signed between April 2007 and December 2008 at rates ranging from \$16.00 to \$25.00 [Exhibit R1 pg 23].

Decision- Issue 3

The Board finds there was no relevant evidence of typical market lease rates.

Matters Relating to Assessment and Taxation Regulation, AR 220/2004, states at:

s.2 *An assessment of property based on market value*

(c) must reflect typical market conditions for properties similar to that property

s.3 *Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year*

In this instance, the Complainant's "contract" rent evidence from the subject may or may not reflect typical market conditions. Without evidence of similar rents from other properties similar to the subject, the Board cannot ascertain whether the contract rents in the subject are typical of the marketplace. Further, the Complainant's evidence of the subject's contract rents, negotiated and commencing 9 years prior to the July 2009 valuation date, and the 10 month "post-facto" unaccepted offer of a 1 year extension, were irrelevant in the matter before the Board.

Although all of the Respondent's leases were from the NE quadrant, none were from the same market area as the subject (DF2), all were classified as office (OF), which was confusing to the Board, as the Respondent had recommended the subject no longer be stratified as an office. Also, the Respondent's dated leases were of little value to the Board in determining a market lease rate as of July 1, 2009, in what was arguably a declining market.

Issue 4: The Municipal Government Board (MGB) has addressed this exact concern in a 2009 decision.

The Complainant provided a Municipal Government Board decision reducing the 2009 property assessment from \$9,550,000 to \$8,770,000.

Decision: Issue 4

The Board finds that the decision of the MGB is not relevant in the matter before this Board.

Although previous Board decisions may be persuasive, they are not binding on this Board. In this instance the Complainant's materials included at pages 60 – 63 of exhibit C1 confirm that the request before the MGB was based on entirely different market coefficients; market rent rate (\$15.00), capitalization rate (6.75%) etc. Further, it appears that the proper building classification as an industrial office/warehouse was not a matter before the MGB.

PART D: FINAL DECISION

The assessment is revised from \$ 8,110,000 to \$ 7,350,000.

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
2.	Exhibit R1

Complainant's Evidence Submission
Respondent's Assessment Brief

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.*