

**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 9, 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:	067221697
LOCATION ADDRESS:	1167 Kensington Crescent NW
HEARING NUMBER:	58526
ASSESSMENT:	\$18,430,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 26,990 square foot (sq.ft.) parcel of land improved with a 77,416 sq.ft. suburban office building constructed in 1981. The main floor is comprised of predominantly retail tenancy, with office space on the upper floors.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The Assessment Review Board derives its authority under Part 11 of the Act. At the commencement of the hearing the Respondent raised an objection to the Complainant's rebuttal document [C2]. The objection was based on:

1. An analysis of the impact of larger leases in the calculation of typical market lease rates, that was not an issue identified on the complaint form, and
2. A rental rate time adjustment analysis that was not included in the Complainant's original disclosure of evidence.

The Complainant submits that the comparables used in the rebuttal analysis are those of the Respondent; no new evidence is introduced in the rebuttal document; and any other documents are full documentation that was introduced by the Respondent in part.

Decision: The rebuttal document may be entered into evidence for the following reasons:

1. The rebuttal document contains no new comparable properties that were not introduced in the Respondent's disclosure of evidence.
2. The matter of time adjustments is a basic principle of valuation, and one that is anticipated in legislation with a specific valuation date clearly set out.
3. The issue of lease sizes with respect to a potential impact on lease rates is also a basic principle of valuation (law of diminishing returns).
4. The remainder of the 105 page rebuttal document consisted of previous decisions of the Municipal Government Board which are not considered evidentiary.

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: The office market rental rate should be \$16 per sq.ft. to establish market value for assessment purposes.

Issue 2: The market rents applied to the subject property should reflect the "type of space" and not the current tenancy.

Issue 3: The assessments of comparable properties have decreased, from the 2009 assessment, by a greater amount than the subject property.

The Complainant submits that a correct assessment value is \$ 16,040,000.

Issue 1: The office market rental rate should be \$16 per sq.ft. to establish market value for assessment purposes.

The Complainant's requested office market rental rate at \$16 per sq.ft. was revised from:

\$12.00 per sq.ft. as set out in the grounds for complaint in section 5 of the complaint form, and \$14.25 per sq.ft. as indicated in Exhibit C1.

The Complainant submitted the rent roll from the subject property and a summary of the subject's recent leasing activity to illustrate that the subject's lease rates have decreased from \$25.00 per sq.ft. for a 1,683 sq.ft. lease commencing in February 2009, to \$14.00 per sq.ft. for 2 leases (of 6 individual lease areas) commencing in December 2009. The weighted average lease rate of the 7 leased areas was \$14.25 per sq.ft. [C1 pgs 14-24]

There was no issue with the vacancy rate or market rent rates applied to the retail and parking components, however the Complainant pointed out that the subject's higher than typical operating costs may affect the net rent rates the subject is capable of generating.

The Respondent submitted a summary of 16 leases commencing in the 12 month period preceding the valuation date for this assessment, indicating weighted average and median lease rates of \$21.00 and \$19.05 per sq.ft. respectively. The leases ranged in area from 740 sq.ft. to 8,854 sq.ft. with a median of 1,847 sq.ft. and an average of 2,420 sq.ft. [R1 pg 28]

The Respondent also provided 4 comparable assessments of NW suburban offices exhibiting an assessed value range of \$209 to 239 per sq.ft., to demonstrate equity with the subject's current assessment at \$238 per sq.ft. [R1 pgs 43-48], as well as third party market reports setting out statistics relating to sale price per sq.ft., asking lease rates, capitalization rates, etc. [R1 pgs 29-41]

With respect to operating costs, the Respondent provided a 2010 NW suburban office operating cost study which set out a median operating cost per sq.ft. of \$11.61 from an analysis of 48 properties (including the subject property) [R1 pg 42].

In rebuttal the Complainant submitted an analysis of leases to demonstrate that the Respondent's lease analysis did not represent typical market lease rates as it did not consider the impact of leases of larger areas [C2 pgs 66-83]. The Complainant also prepared a trending analysis of leases from the Respondents lease evidence to illustrate a decline in the market from the lease commencement dates to the valuation date.

Decision - Issue 1

The Board finds that there was insufficient relevant evidence to disturb the assessment.

The Complainant's analysis of the recent leasing activity within the subject was of limited value to the Board as it was based on only 2 lease agreements, one of which was well beyond the valuation date. The impact of the large area of the December 2009, IBI lease agreement at \$14.00 was persuasive, but the Board in examining the leases within the subject property, was not persuaded that leases of large contiguous spaces represent the typical office marketplace within suburban offices.

The Complainant's time adjustment of the Respondent's leasing data was also not considered particularly reliable as the trending results were inconsistent and inconclusive. For example at page 93 of C2, Comparable B indicates a 43% decline in lease rates in the 2 months from October to December 2008 (year end) while Comparables A and C exhibit a minor decline and Comparable D exhibits an increase from July 2008 to January 2009 (year end).

With respect to the trending analysis charts at pages 87 to 92 of C2, the Board did not find the Complainant's conclusions, based on the limited number of observations in each chart, to be very persuasive. At page 87, the trend line (established from only 2 data points), would imply a lease rate of \$19.00+ as of the July 2009 valuation date. The chart at page 91, prepared from the leases in the subject property would also suggest a July 2009 valuation date lease rate of approximately \$18.75, an amount very close to the \$19.00 rate that is under complaint,

The leases commencing in 2009, contained within the Respondent's exhibit R1 at page 28, represent the best evidence before the Board with respect to lease rates, and provide a range of lease rates that support the assessment.

Issue 2: The market rents applied to the subject property should reflect the "type of space" and not the current tenancy.

The Complainant provided evidence of "office space" that was assessed at retail rent rates as a result of a retail type tenancy, and vice versa.

Decision - Issue 2

The Board finds that although the Complainant's position is valid, the required adjustment to the assessment of the subject property as a result of the minimal area at issue, would be inconsequential, and therefore will not be addressed.

Issue 3: The assessments of comparable properties have decreased, from the 2009 assessment, by a greater amount than the subject property.

The Complainant's evidence indicated that the assessment of the subject property has decreased by 11.3% from the previous year, while the assessments of comparable properties have been set at 21.7% to 32.9% lower than the previous year, demonstrating an inequity.

The Respondent submitted that one of the comparables was classified incorrectly for the previous assessment, and that correction was made for the current year.

Decision – Issue 3


The Board finds that there was insufficient evidence to demonstrate an inequity exists due to the changes in assessment values from year to year.

In order to determine if there is an inequity based on the changes in assessment values from year to year, the Board would have to examine market evidence for each of the properties, for both the current year, as well as the prior year, to first make a determination if the previous year's assessments were correct. As a Assessment Review Board's jurisdiction is limited to deciding the matter of the current assessment, the Board will not look at establishing the correctness of prior years' assessments.

PART D: FINAL DECISION

The assessment is confirmed at \$18,430,000.

Dated at the City of Calgary in the Province of Alberta, this 16th day of August, 2010


for J. Krysa
Presiding Officer

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

NO.	ITEM
1.	Exhibit C1 Complainant's Brief
2.	Exhibit R1 Respondent's Brief
3.	Exhibit C2 Complainant's Rebuttal

APPENDIX 'B'**ORAL REPRESENTATIONS**

PERSON APPEARING	CAPACITY
1. B. Ryan	Representative of the Complainant
2. K. Moore	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.*