

**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:

D. Thomas, PRESIDING OFFICER

A. Blake, MEMBER

B. Jerchel, 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: 068051507

LOCATION ADDRESS: 407 2 St. SW

HEARING NUMBER: 59556

ASSESSMENT: \$59,670,000

This complaint was heard on the 6th day of August, 2010 at the office of the Assessment Review Board located at 3rd floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #1.

Appeared on behalf of the Complainant:

- Mr. Daryl Genereux *Altus Group Ltd.*
- Mr. Giovanni Worsley

Appeared on behalf of the Respondent:

- Mr. Walter Krynski *Assessor, The City of Calgary*

BACKGROUND

This property, an office tower known as Canada Place, was heard contemporaneously with two other office towers. On the first office tower (Plaza 1000) (file #60230) the Complainant and Respondent tendered argument on issues of appropriate rental rates for office and retail, vacancy rates and capitalizations rates.

These representations from the Plaza 1000 leasing were intended and accepted by the Board as applying to all three office towers including the subject Canada Place.

Canada Place, located at 407 2 St. SW, is an 18-storey office tower, assessed by the Respondent as a B+ building. The tower contains 193,646 square feet of office space and 3,949 square feet of retail space.

The Complainant seeks a variation in office rents from \$28 to \$21 to achieve market rental value alternatively if not the market rate, the rate of \$26 to achieve equity with similar buildings in Calgary.

The Complainant also seeks a reduction in the rental leasing rate from \$32 p.s.f. to \$26 p.s.f. to achieve equity with similar buildings.

Finally the Complainant seeks a variation in the Capitalization rate from 8% to 8.5% to reflect market trends existing for such buildings.

POSITION OF THE COMPLAINANT

1) Office Rental Rates

The Complainant seeks a reduction from an assessed rate of \$28 p.s.f. to a market rate of \$21 p.s.f. or alternatively an equitable rate compared to similar properties of \$26 p.s.f.

The Complainant provided a rental study for similar downtown office space that showed office rental rates were near \$21 p.s.f.

The Complainant further presented a number of downtown office buildings (B+) that were

assessed at \$26 not \$28 p.s.f. and believes they should at least get the same to preserve equity.

2) Retail Rental Rate

The Complainant founded his argument to vary the retail rate from \$32 to \$26 p.s.f. on equity, listing a number of claimed similar buildings receiving the \$26 rate.

3) Capitalization Rate

The Complainant on the basis of his overall capitalization rate argument, seeks a cap rate of 8.5% to reflect the declining economic market factors facing office towers and the significant amount of new uncommitted office space expected in the next two years. This will preserve the traditional hierarchy between "A" and "B" buildings as the current cap rate for "A" buildings is 8%.

POSITION OF THE RESPONDENT

1) Office Rental Rates

The Respondent referred again to their rental rate summary and analysis showing that for this building class B+, the rental rate is fully supported by the market.

As well they noted, if pruned of leases that are post-facto or not alike, even the Complainant's rental evidence supports the assessment. The error here is that the Complainant is seeking to incorporate a greater decline in rental rates that happened at the end of 2009 or later while the assessor by law must look at the market conditions existing in mid-2009 to meet his legal obligations for assessment.

The subsequent decline in rates will be reflected in later years' rates.

Regarding the claim for a reduction in rental rates based on equity, the comparables used by the Complainant are not similar; most have differing classes than those used by the city or ignore the significant variations in downtown economic zones. This property is assessed using an equitable rate compared to those truly comparable.

2) Retail Rental Rate

The Respondent acknowledged that the Complainant has given comparables in the DT-1 economic zone at the \$26 range; however he has failed to show these buildings are of a similar classification to the subject. The Complainant has frequently assigned his own classifications to an office tower without providing an objective rationalization to support these classification assumptions.

3) Capitalization Rate

The Respondent states the Complainant has tried to make his case for an increased cap rate using the "A" building sales, which admittedly are the only sales in the subject period and then varying them to reflect the rate difference typical between A & B buildings.

However, the use of the 8-West sale taints this analysis as it cannot be considered a typical market transaction. Practice standards in valuation would not accept a distress sale such as 8-West as representing a market value. Without that sale, the Complainant's analysis, as well as Realty/Valuations advisors, Colliers, CBRE and Altus, support the capitalization rate used in the assessment.

FINDINGS OF FACT

- 1) The Board finds \$28 p.s.f. office rental rate to be an appropriate factor for assessment purposes.
- 2) The Board finds \$32 retail rental rate to be an appropriate factor for assessment purposes.
- 3) The Board finds 8% to be an appropriate capitalization rate for a building of this class.

DECISION

The Board denies the complainant and confirms the assessment in the sum of \$59,670,000.

DECISION REASONS

1) Office Rental Rates

The Board finds the Respondent's evidence by way of rental survey and analysis is the best evidence as to market rates. The Complainant's evidence of rates was largely post facto; those rentals from the applicable period support this assessment.

The Complainant's claim for an equitable rate of \$26 fails as well. The comparables presented by the Complainant were frequently of differing classifications or economic zone and no objective basis for similarity was given sufficient to permit the Board to look past the Respondent's classifications.

2) Retail Rental Rates

The Board could not accept the evidence of the Complainant's actual rental rate was typical for buildings of this class and zone. Similarly the comparables presented for equity varied to a significant degree in classifications or economic zone to warrant considerations to vary this rate.

The obligation is upon the Complainant if they believe this is an error in classification to provide an objective alternative that appears consistent and verifiable to convince the Board to look past the Respondent's classification. That was not found here.

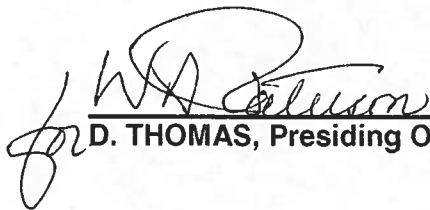
3) Capitalization Rate

The Board agreed with the Respondent that the use of the 8-West building sale in the Complainant's Cap Rate Study taints the result. The evidence was that sale arose out of a

business failure and the sale, through Court approval for creditors, does not meet the standard for a market transaction. There is insufficient evidence to overcome the possibility that other influences on the sales value make it inappropriate to include this sale in the Cap Rate Analysis.

The Board finds all remaining evidence lent weight to the 8% rate used in the assessment and to the assessed value in general.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF AUGUST, 2010.


D. THOMAS, Presiding Officer

DT/mc

CC: Owner

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.*