

**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 LTD., Complainant

and

THE CITY OF CALGARY, Respondent

Before:

J. KRYSA, Presiding Officer

M. PETERS, Member

T. USSELMAN, Member

A hearing was convened on August 23, 2010 in Boardroom 12, 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:	175036920
LOCATION ADDRESS:	400 Crowfoot Crescent NW
HEARING NUMBER:	59016
ASSESSMENT:	\$24,650,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 122,713 square foot (sq.ft.) parcel of land improved with a multi storey A+ office/retail development constructed in 2001, and comprised of 45,198 sq.ft. of upper floor office space, 18,588 sq.ft. of main floor retail space, and a 4,640 sq.ft. bank structure.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

There were no procedural or jurisdictional matters raised by the parties.

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 9 reasons for complaint in Section 5 of the Complaint form, however at the hearing the Complainant stated only the following issues remained in dispute:

Issue 1: The \$28.00 rental rate applied to the office component within the subject are excessive given the rental rates applied to infinitely superior properties of a newer vintage, and given the rental rates within the subject property [C1 pg 3]. (Request: \$22.00 per sq.ft.)

Issue 2: The vacancy is clearly over assessed for the subject and should be increased to 9.5% further this emphasized by the recent decisions regarding this very issue [C1 pg 3].

The Complainant stated that there was no issue with the valuation of the retail or bank component, and requested an assessment of \$20,030,000.

Issue 1: The \$28.00 rental rate applied to the office component within the subject are excessive given the rental rates applied to infinitely superior properties of a newer vintage, and given the rental rates within the subject property [C1 pg 3]. (Request \$22.00 per sq.ft.)

The Complainant submitted a copy of the rent roll from the subject property dated March 12, 2009 to illustrate that the actual contract rents in the subject range from \$18.00 to \$26.00 per sq.ft. in contrast to the assessed market rent coefficient of \$28.00 per sq.ft. [C1 pg 22-39].

The Complainant further provided the assessed market rent coefficients of 12 office properties ranging from \$21.00 to \$22.50 per sq.ft., with a median of \$22.00 per sq.ft. to demonstrate that the subject is inequitably assessed in relation to similar or superior properties [C1 pgs 56-137].

The Respondent provided a copy of the assessment request for information (ARFI) form and pointed out that the most recent leases for office space were signed in early to mid 2008 for \$25.00 and \$26.00 per sq.ft.

The Respondent also submitted a summary of leases signed in class A+, NW suburban offices exhibiting median and average rent rates of \$28.00 and \$26.95 per sq.ft. respectively, for leases signed between June 2008 and January 2009; and median and average rent rates of \$26.25 and \$26.73 per sq.ft. respectively, for leases signed between July 2007 and January 2009. Within these analyses, one lease was signed in (January) 2009 at \$22.00 per sq.ft. The Respondent also provided a 3rd party office market report indicating that 2nd quarter 2009 estimated asking face rates for class A NW office space was \$27.95 per sq.ft. [R1 pgs 25-35].

To demonstrate that the subject is equitably assessed in relation to similar properties, the Respondent submitted assessment data sheets of two NW suburban class A+ offices that were also assessed at the \$28.00 per sq.ft. market rent coefficient [R1 pgs 59-61].

Decision – Issue 1

The Board finds that the \$28.00 per sq.ft. office rent coefficient is not supported by market evidence, and a rate of \$26.00 per sq.ft. is appropriate.

The Respondent's analysis of market lease activity was afforded considerable weight, however with the exclusion of the comparable at 736 1 Avenue NE due to its proximity to downtown, a lower average and median market rent rate was evident. Further, with only one NW class A+ office lease signed in 2009 to establish typical market rent, the Board was persuaded by the 2008 lease activity within the subject property found in both parties rental information that set out two individual leases signed at \$26.00 per sq.ft. and a third lease at \$25.00 per sq.ft. The remainder of the leases within the subject were dated and of little value to the Board in establishing market rents as of July 01, 2009.

The Board rejects the Complainant's argument that although the majority of his comparables were in a different quadrant of the municipality, the market rent coefficients should be similar as they are a similar distance from the downtown core as the subject property, albeit in a different direction. As there was no market evidence provided by the Complainant to substantiate that market rents in the SE quadrant are similar to that in the NW quadrant, the Board is not persuaded that the properties are similar, and therefore the equity argument fails. With respect to the Complainant's two equity comparables located in the NW quadrant, the Board finds that they are not comparable to the subject property, as they are more than 20 years older than the subject property, and of a different classification (A2).

Issue 2: The vacancy is clearly over assessed for the subject and should be increased to 9.5% further this emphasized by the recent decisions regarding this very issue [C1 pg 3].

The Complainant submitted two decisions of the Calgary Assessment Review Board wherein the Board revised the suburban office vacancy rate for the properties in question from 6% to 9.5%. The Complainant argued that the subject is inequitably assessed as a result of the 6% vacancy allowance coefficient applied in this instance [C1 pgs 140-164].

The Respondent submitted a 2010 NW suburban office vacancy study and further data from a 3rd party source, as well as a decision of the Calgary Assessment Review Board wherein the Board confirmed the suburban office vacancy rate for the property in question at 6%.

Decision – Issue 2

The Board finds that there was no market evidence submitted by the Complainant to warrant a change in the vacancy allowance coefficient applied to the subject.

Further, the Board finds that the Calgary Assessment Review Board, in decisions #0504/2010-P and #0506/2010-P, heard market evidence in respect of suburban office vacancy rates in the SE and SW quadrants of the municipality, and did not hear evidence in respect of suburban office vacancy rates in the NW quadrant of the municipality. Therefore, the ARB decisions submitted by the Complainant do not demonstrate an inequity, and are irrelevant to the matter before the Board in this complaint.

PART D: FINAL DECISION

The assessment is revised from \$24,650,000 to \$23,540,000.

Dated at the City of Calgary in the Province of Alberta, this 6 day of October, 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 Brief
	Respondent's Brief

APPENDIX 'B'

ORAL REPRESENTATIONS

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