

**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-26.1, Section 460(4).

between:

Altus Group Limited, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

Don Steele, MEMBER

Ike Zacharopoulos, 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: 113011993

LOCATION ADDRESS: 70 Glendeer Circle S.E.

HEARING NUMBER: 59515

ASSESSMENT: \$11,940,000

This complaint was heard on 27 day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- Altus Group Limited – A. Izard

Appeared on behalf of the Respondent:

- City of Calgary – R Farkas

Property Description and Background:

This complaint along with two others was the subject of a jurisdictional hearing heard by the same CARB panel on July 6, 2010. In its decision (0830/2010-P) respecting the jurisdictional matter the CARB raised its intention to consider the potential awarding of costs under section 52(3) of MRAC. The matter of costs will be dealt with under a separate decision.

The subject property is a retail shopping complex containing approximately 45,000 sq. ft. of retail space and 18,359 sq. ft. of office space located at 70 Glendeer Circle S.E. The assessment is \$11,940,000 for 2010. The parties indicate that the office rental rate and the vacancy rate are the only matters requiring a decision of the CARB.

Issues:

1. What is the correct and equitable rental rate for the subject office space?
2. What is the correct and equitable vacancy allowance for the subject property?

Board's Decision in Respect of Each Matter or Issue:

1. The correct, fair and equitable rental rate for the 18, 359 sq. ft. of office space is \$18.00.
2. The correct, fair and equitable vacancy allowance for the subject property is 4%.

Several other issues were raised in the Complainant's complaint filed with the Assessment Review Board (ARB) on March 4, 2010. The only issues that the parties brought forward in the hearing on August 27, 2010 before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised by the Complainant.

Overview of the Positions of the Parties

The Complainant made reference to several previous CARB decisions which have dealt with the vacancy matter and concluded that 4% is the appropriate allowance that should be used for properties similar to the subject. The Respondent referred to many of the same CARB decisions and concurred that the vacancy rate should be set at 4% to be consistent with these earlier decisions.

The rental rate for the office space according to both parties had also been dealt by CARB panels respecting similar properties and a rate of \$18.00 per sq. ft. had been decided on in those cases. Both parties supported the application of an \$18.00 rate based on equity and previous CARB decisions.

Reason for the Decision

The CARB reviewed several previous CARB decisions relating to both the vacancy matter and the office rate matter and believes that these decisions do support the \$18.00 office rental rate and the proposed 4% vacancy allowance. The position taken by the parties appeared to be primarily based on previous leading decisions of the CARB as there was very limited reference to the specific evidence in this case. While the CARB is not bound by its previous decisions it nevertheless makes every effort to be consistent with its decisions when the facts are similar and the properties are similar. In this case, based on the previous CARB decisions and the positions advanced by the parties in their testimony, the CARB sets the office rental rate at \$18.00 per sq. ft. and the vacancy allowance at 4%.

Decision Summary

Based on the foregoing findings the decision of the CARB is to set the assessment for the subject property at \$11,510,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF September 2010.



Paul G. Petry
Presiding Officer

xxx/xx

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.*