

**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:

H. Kim, PRESIDING OFFICER

K. Coolidge, MEMBER

J. Mathias, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a Property assessment prepared by the Assessor of the City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	200971216
LOCATION ADDRESS:	635 6 Ave SW
HEARING NUMBER:	57423
ASSESSMENT:	\$58,480,000

This complaint was heard on the 13th day of September, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Board's Decision in Respect of Procedural or Jurisdictional Matters:

The subject hearing was the first of nine roll numbers scheduled to be heard the week of September 13th. The Respondent stated that all were viewed as B class buildings and presented 9 previous Board decisions for B class buildings. In each case the Complainant was the same as for the subject hearings, and the same general argument was presented as will be presented for the subject hearings. The assessment cycle, vacancy, and capitalization rates were argued and addressed in the orders. The Respondent noted that the Act does not have provision for rehearing, and by allowing the Complainant to make the same argument before different panels is effectively allowing a rehearing of the same issues.

As a preliminary matter, the Respondent requested that the general arguments be brought forward from those hearings and only site specific issues be considered for the subject hearings be entered.

Decision and Reasons:

Board considered the request but found that to grant the request would be contrary to the principles of natural justice, in particular the *audi alteram partem* rule. Under the *Municipal Government Act*, each complaint is a separate hearing, and while it may not be time-effective to argue an issue that had previously been decided, the Complainant is entitled to a full and fair hearing. Given the single level of appeal provided for under the *Act*, granting the preliminary request would abrogate the rights of the Complainant. Accordingly, the Board denied the preliminary request and the hearing proceeded with the full package including the general argument.

Property Description:

The subject is a 20 storey office building in the DT2 zone of downtown Calgary, constructed in 1976, known as the Ford Tower, attached to a 5 storey office building constructed in 1964 known as the Alpine Building. They are on a single title, but connected only at the underground parking garage. The two buildings are assessed together with a total 193,623 SF of office space, 7,606 SF of retail and 89 parking stalls on a 26,073 SF parcel. It is classified as a B building and assessed on the income approach using typical B class parameters of \$26/SF office, \$21/SF retail, \$3,600/annum parking with office and retail vacancy at 8%. Operating costs of \$16 for office, \$17 for retail and vacancy shortfall of 2% are applied and the resulting net operating income is capitalized at 8% to arrive at the assessment.

Issues:

The Complainant identified several issues on the Complaint forms, but at the hearing the issues argued and considered were:

1. The classification of the Alpine Building is incorrect based on the market and previous years' assessments.
2. The parking rate should reflect a mix of B and C parking rates and reduced to \$390/stall

3. The rental rate for the office should be reduced to \$18.50/SF for the Ford Tower and \$14/SF for the Alpine Building to reflect differences in Class B and C market rents.
4. Vacancy should be increased to 11% for the Ford Tower and 10% for the Alpine Building.
5. The capitalization rate should be increased to 8.5% and 9% for the Ford and Alpine buildings respectively.

Complainant's Requested Value: \$35,670,000 revised to \$31,050,000 at the hearing.

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

Issue 1: Classification

Complainant's position:

The two buildings are on a single title but are separate buildings: the above grade spaces are not connected at all. The Complainant submitted the Assessment Summary Report for the 2010 assessment which showed the two buildings with both classified as B quality. The Complainant argued that the Alpine building is more properly classified as a C building, and that the Respondent had previously assessed the property using two parameters. The 2007 Assessment Explanation Supplement for the subject property listed Office Market Rent of \$16 for the Ford Tower and \$13 for the Alpine Building. For the 2010 year the two buildings were assessed as a unit using B rates. The assessments of comparable buildings declined relative to the 2009 assessment but the subject went up slightly (\$58,480,000 vs. \$58,440,000 for 2009). The only recent leasing activity is in December 2009.

Respondent's position:

The Respondent agreed that there were two different rental rates applied in the past.

Decision and Reasons:

The Board accepts that the buildings are separate, and is of the opinion that with respect to revenue, each building would compete with other similar buildings in the marketplace regardless of whether they are on a single title. The Complainant stated that the Alpine was a four storey building but the photographic evidence and the rent roll indicates that it is a five storey building. Regardless, it is a substantially smaller building more comparable to other smaller C class buildings in the DT2 area. Accordingly, it is reasonable that different parameters for rental rate, vacancy and operating costs be applied for the two parts of the property.

Issue 2: Parking Rate

The Complainant stated that Class C rates were \$375/month and Class B was \$400 per stall. The rate applied should be a blended rate and therefore \$390/month per stall is a more reasonable rate to be applied.

Decision and Reasons:

The evidence was that parking was connected between the two buildings. The Board finds that the parking rate should remain at the assessed level because the parking serves both buildings.

Issues 3 and 4: Rental Rate and Vacancy

The evidence and argument presented were substantially the same as those presented for other class B and C buildings in close proximity to the subject in other hearings later in the day and the following day, which were analyzed in detail and separately in CARB 1576/2010-P for B class buildings and CARB 1577/2010-P for C class buildings. For the same reasons as provided in the orders cited, the Board finds that \$24 and \$21/SF for office space in the Ford Tower and Alpine Building respectively, and 8% and 10% for typical B and C class vacancy are appropriate.

Issue 5: Capitalization rate

The capitalization rate presentations from both parties was also substantially the same as that used for other class B and C buildings in other hearings later in the day and the following day, but the Complainant argued that the two buildings should have different cap rates applied while the Respondent stated that for a single titled building the market would not apply two different cap rates.

Decision and Reasons:

The Board agrees with the Respondent that for a single titled property it is not appropriate to apply two different cap rates to the income streams. The space in the Ford Tower makes up the bulk of the total rentable area of the subject; therefore the cap rate for B class buildings should be applied. The rate determined in CARB 1576/2010-P was 8.5% for typical B class buildings, and for the same reasons the Board finds that this rate should be applied to the subject.

Board's Decision:

The complaint is allowed, in part, and the assessment is reduced to \$49,000,000 based on \$24/SF office rental rate for Ford Tower and the income parameters for the Alpine building changed to those for class C buildings in DT2 (\$21/SF office, \$18/SF retail, 10% vacancy, \$15/SF office and retail operating costs), 8.5% cap rate and no changes to any other parameters.

DATED AT THE CITY OF CALGARY THIS 1 DAY OF OCTOBER 2010.


H. Kim

Presiding Officer

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

NO.	ITEM
C1	Complainant Forms
C2	Complainant's general argument for Class B and Class C
C3	Complainant's vacancy rate, rental rate and capitalization rate analysis and classification of buildings
C4	Appraisal texts, previous board orders, third party reports
C5	Complainant's Site Specific submission
R1	Respondent's submission
R2 to R10	Precedent CARB orders for office buildings

APPENDIX 'B'**ORAL REPRESENTATIONS****PERSON APPEARING CAPACITY**

Giovanni Worsley	Altus Group Limited, Complainant
Dan Lidgren	Assessor, City of Calgary, Respondent
Andy Czechowskyj	Assessor, City of Calgary, 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.*