

**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 Property assessments prepared by the Assessor of the City of Calgary and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBERS:</b>	<b>067044107</b>	<b>067046508</b>
<b>LOCATION ADDRESSES:</b>	<b>839 5 Ave SW</b>	<b>840 6 Ave SW</b>
<b>HEARING NUMBERS:</b>	<b>59980</b>	<b>59984</b>
<b>ASSESSMENTS:</b>	<b>\$31,750,000</b>	<b>\$32,730,000</b>

This complaint was heard on the 14 day of September, 2010 at the office of the Assessment Review Board located at the 4<sup>th</sup> Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

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

The Respondent raised a preliminary issue with respect to late filing of a portion of the Complainant's disclosure on one of the properties. The Complainant had emailed a package of documents on July 29, 2010 but the package was incomplete, starting at Page 35 instead of Page 1. The Respondent alerted of the missing pages on August 16, 2010 and the Complainant emailed the package including the missing pages ten minutes later. The missing pages included the site specific details and the requested amount.

The Respondent requested that the complaint be dismissed as there was no requested value, specific issues or conclusions. In the alternative, the Respondent stated that the missing 34 pages were disclosed late, and requested that they not be entered into evidence.

**Decision and Reasons:**

The original complaint form listed the issues and requested assessment; therefore this information had already been entered despite the missing pages. Further, the Board does not have jurisdiction to dismiss a complainant due to inadequate specifics. It was agreed by both parties that the missing pages were submitted late; however they were essentially identical to the ones that had been supplied for the other roll number. The Board determined there was no prejudice to either party to have the offending pages removed from the evidence package and the hearing proceeded on that basis.

**Property Description:**

The subjects are two virtually identical eight storey office buildings constructed in 1978. They are known as Atrium I and II and are located across a lane from each other. Atrium I, at 839 5 Ave SW consists of 100,381 SF of office space, 9,455 SF of main floor retail and 84 parking stalls on a 18,188 SF parcel of land. Atrium II, at 840 6 Ave SW consists of 101,000 SF of office space, 8,636 SF of main floor retail and 86 parking stalls on a 17,546 SF parcel.

The buildings are in the DT2 zone and are classified as B buildings. They are assessed on the income approach based on \$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 full assessment values of \$33,664,525 and \$33,746,088 for Atrium I and II respectively.

A portion of both buildings are leased to exempt tenants, details of which were provided for Atrium I but not Atrium II. The values attributable to the exempt tenancies are \$1,910,000 and \$1,010,000 for Atrium I and II respectively, and are deducted from the full assessment values to arrive at the assessments under complaint.

**Issues:**

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

1. The rental rate for the offices should be decreased to \$18.50 from \$26
2. The vacancy allowance applied to the subject property should be increased from 8% to 11%
3. The capitalization rate should be increased to 8.5% from 8%

**Complainant's Requested Values:**

Roll Number 067044107: \$23,614,000 on the Complaint form  
Revised to \$21,140,000 (taxable) at the hearing

Roll Number 067046508: \$23,670,000 on the Complaint form  
Revised request was not submitted per preliminary matter.

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

**Issue 1: Rental Rate**

**Complainant's position:**

The Complainant presented 51 leases in comparable buildings, including the subjects, with lease start dates between January 2009 and April 2010. The rates were between \$12 and \$30/SF with an average of \$20.27, a median of \$19.50 and a weighted average of \$19.50/SF.

The Complainant also presented graphs on which the lease rates for all B class buildings were plotted over time with a best fit curve to show the steep decline from \$35/SF in January 2009 to \$20/SF in June 2009, continuing to October 2009 when the rates levelled off at around \$17/SF. The Complainant contends the lease rates presented support the requested rate of \$18.50/SF for the subject buildings.

**Respondent's position:**

The valuation date for the 2010 assessment year is July 1, 2009. Leases starting after that date should not be considered since the market value at July 2009 would be based on activity prior to that date. The leases considered were those starting in the year prior to the valuation date. Respondent's presented two leases in Atrium I with start dates of August 1, 2008 and November 1, 2008 for \$24.14 and \$29/SF. The Respondent also presented 7 leases in Atrium II with start dates between July 1 2008 and February 1 2009 for \$25.75 to \$30/SF with a mean, median and weighted mean of \$28.25, \$28 and \$28.11 respectively. The Respondent also presented 31 leases of B class buildings in DT2 with start dates between July 1 2008 and June 1 2009 for \$18 to \$34/SF with a weighted mean of \$27.80/SF. The \$26/SF rental rate applied to Class B buildings in DT2 is supported by leases in the area and in the subject buildings.

The Respondent disputed the majority of the leases submitted by the Complainant as post facto, step-ups of old leases or buildings in the wrong class. The remaining leases have a weighted average of \$27.80 and again support the rental rate used in the assessment.

**Decision and Reasons:**

The Board agrees that post facto lease rates should not be considered, as the market value at the valuation date would be based on leasing activity up to that date. However, in a declining market, leases signed substantially before the valuation date would likewise not be an accurate reflection of market value at July 1, 2009.

The Board considered the leases signed in the second quarter (Q2) of 2009 to be most likely reflective of market rates, and looked at the leases in the DT2 zone. The second quarter leases

presented by the Respondent and the one remaining undisputed DT2 lease presented by the Complainant were reviewed:

Address	Leased area	Lease start	Rental rate
603 7 Ave SW	5050	05/01/2009	22
603 7 Ave SW	2410	06/01/2009	22
833 4 Ave SW	32574	05/01/2009	32
704 7 St SW	10893	04/01/2009	28
704 7 St SW	4052	05/01/2009	23
815 8 Ave SW	3000	04/01/2009	18
800 6 Ave SW	1008	04/01/2009	29
635 6 Ave SW	891	05/01/2009	15
		Mean	23.63
		Median	22.50
		Weighted mean	28.41

The weighted mean is substantially impacted by a single very large lease; therefore in this case the Board did not consider it to be a reliable measure of market value, and looked to the mean and median of \$23.63 and \$22.50/SF. With the one Complainant's lease (last on the list) removed, the mean and median of the Respondent's Q2 leases are \$24.85 and \$23/SF. On balance, the Board is of the opinion that \$24/SF based on average Q2 leases is a better reflection of market rent for the subject buildings than the \$26 used in the assessment.

## **Issue 2: Vacancy Allowance**

### **Complainant's position:**

The Complainant presented a vacancy study for Class B buildings that showed 2009 vacancy at 13.77% but corrected some errors to reduce it to an average of 13.09% and a median of 11.3% to support the requested 11% vacancy rate. The ERBC/EUB building, with 229,740 sq. ft. of space, will become 100% vacant when the Board moves to Centennial Place in November 2010 at which point Class B vacancy will jump by 6%.

### **Respondent's position:**

The Respondent presented a summary of Q2 vacancy rates for Good (Class B) from various industry reports: 8.73% - CRESA, 7.2% - Avison Young, 7.4% - Colliers and 6.8% - Barclay. The actual reported total vacancy from Assessment Request for Information (ARFI) returns of B class buildings is 4.97%. The 2009 ARFI return for the subjects reported 4.74% and 7.26% vacancy for Atrium I and II respectively at April 1, 2009. Therefore the 8% applied is reasonable.

### **Decision and Reasons:**

While the Board recognizes that the ARFI reports are for conditions in March or April and the valuation date is July, the second quarter market reports support the 8% vacancy allowance. The Board is of the opinion that the vacancy rate used for assessment should be the current rate, not the rate that might be in effect at some future date when new buildings are completed. Higher vacancy rates expected in the near future could increase the risk associated with the income stream and impact the capitalization rate, however without knowing what the absorption

rate will be it cannot be stated that the future vacancy will be the amount of new space to be completed, nor can it be stated how it will affect vacancy rates in which classes of buildings. Therefore the Board did not find an adjustment to the currently applied vacancy rate to account for the EUB building becoming 100% vacant in November 2010 was justified.

### **Issue 3: Capitalization rate**

#### **Complainant's position:**

There were no recent sales of B and C class buildings. The Complainant did not pursue the Class A cap rate argument that had been presented at previous hearings, and relied on the Respondent's 2010 cap rate chart:

Class	2009 cap rate	2010 cap rate	Q2 Colliers	Q2 CBRE	Q2 Altus Insite
Superior (AA)	6.50	7.00	7.0 - 7.5	6.75 - 7.25	7.20
Excellent (A)	7.00	7.50	7.25 - 7.75	7.50 - 8.00	
Good (B)	7.25 - 7.50	8.00	8.0 - 8.50	8.75 - 9.25	8.10
Average (C)	7.50 - 7.75	8.50	N/A	N/A	
Poor (D)	8.75	9.00	N/A	N/A	

The Complainant made reference to previous Board orders, notably ARB 0660/2010-P which stated "...the selection of a capitalization rate at the lowest end of the range at 8% appears to be very aggressive" and ARB 0980/2010-P which stated "...the range for Class B office buildings was 8.0% to 9.25% with an average of 8.45%. The Board is of the opinion that a more reasonable cap rate based on that range for Class B would be 8.5%." The Complainant submitted that the third party market reports relied on by the Respondent and the previous orders show the appropriate cap rate for downtown B class buildings is 8.5%. The Complainant disputed the reliability of the Respondent's Highstreet House sale, highlighting the General Notes statement that real estate brokers had not been used and suggesting that it may not have been a market sale.

#### **Respondent's position:**

The Respondent agreed there were no valid sales in the Downtown Office category in the relevant time frame. The cap rates used for the assessment were based on 2009 Q2 market reports. 8% was selected for Class B buildings, and this capitalization rate is supported by sales outside the Downtown. Highstreet House is located at 933 17 Ave SW in the Beltline and sold in April 2009 for \$14,500,000 at a 7.5% estimated cap rate. The Respondent considers Beltline to be an inferior location, therefore the 7.5% cap rate of that sale supports an 8% rate applied to B buildings Downtown.

The Respondent submitted that cap rates cannot be taken in isolation; that and the other income parameters must together support the overall value. The sale price of Highstreet House was \$296/SF compared to the assessment of the subjects at \$307/SF.

#### **Decision and Reasons:**

Whether or not the Highstreet House sale was an open market sale, the Board does not agree that it is of any assistance in determining the appropriate cap rate or value of the subject

properties. It is less than half the size of each of the subjects, has substantially more parking, and is in a completely different market area. The CBRE 2009 Q2 Canadian Cap Rate Survey contained in the Respondent's submission lists cap rates for Suburban B office buildings in Calgary at 8.50-9.00% while Downtown B office buildings are 8.75-9.25% (R1 p80). This does not support the Respondent's position that the Beltline is inferior to Downtown.

For the same reasons as outlined in the previous Board orders, in the absence of valid sales information, the Board considered third party market reports the best indicator of appropriate cap rates and accordingly finds that 8.5% is the appropriate cap rate for the subject properties.

**Board's Decision:**

The complaint is allowed, in part, and the assessment is reduced as follows:

Roll Number 067044107: \$28,140,000 (\$29,790,000 less \$1,650,000 exempt portion)  
Roll Number 067046508: \$28,660,000 (\$29,610,000 less \$950,000 exempt portion)

based on \$24/sq. ft. office rental rate, 8.5% capitalization rate and no changes to any other parameters. The exempt space in Atrium I was calculated based on the information provided. The exempt space in Atrium II could not be identified from the evidence presented and was calculated based only on the change to the capitalization rate.

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:**

<b>NO.</b>	<b>ITEM</b>
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 general office building submission
R2	Respondent's Site Specific submission
R3 to R11	Precedent CARB orders for office buildings
R12	2005 and 2006 rental rates for office buildings vs assessed rate

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

Giovanni Worsley	Altus Group Limited, Complainant
Dan Lidgren	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.*