

**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:	067049502
LOCATION ADDRESS:	605 5 Ave SW
HEARING NUMBER:	59991
ASSESSMENT:	\$136,670,000

This complaint was heard on the 14th 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.

Property Description:

The subject is a 33 storey office building in the DT2 zone of downtown Calgary, constructed in 1970, known as the Fifth and Fifth Building (previously known as the Canadian Hunter Building). It is on the eastern edge of DT2 in close proximity to DT1 and is connected by +15 to other buildings in the downtown core. It consists of 439,889 SF of office space, 26,445 SF of retail and 242 parking stalls on a 33,975 SF parcel. It is classified as a higher end B building and assessed on the income approach based on \$26/SF office, \$21 and \$9/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 two issues argued and considered were:

1. The rental rate for the offices should be decreased to \$21 from \$26
2. The capitalization rate should be increased to 8.5% from 8%

Complainant's Requested Value: \$100,640,000 revised to \$105,300,000 at the hearing.

Board's Decision in Respect of Each Matter or Issue:**Issue 1: Rental Rate****Complainant's position:**

The Complainant presented 51 lease rates in B class buildings, with 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 \$19.45/SF. The Complainant also presented 10 lease rates for B+ class properties, including the subject, with start dates between March 2009 and March 2010 with lease rates between \$15.50 and \$38/SF with an average of \$23.20, a median of \$21.00 and a weighted average of \$20.67/SF. The two leases in the subject started on October 1, 2009 and December 1, 2009 for net rents of \$20.57 and 24.97/SF respectively. Two additional spaces in the subject building were signed in June 2009 but with lease start dates in May 2010 and April 2011 for net effective rates of \$19.48/SF and \$24 respectively.

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. A straight line from \$30/SF at December 2008 to \$12/SF at January 2010 was plotted to support a 12.5% per month time adjustment for lease rates.

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 Respondent submitted 21 leases with commencement dates in April, May and June 2009. The weighted mean was listed as \$28.58 but some were obvious duplicates and the weighted mean was corrected to \$27.13 at the hearing.

The Respondent submitted the Assessment Request for Information (ARFI) return for the subject building, but the majority of the leases are dated. The recent leasing activity in the subject consists of two leases starting July 2008 at \$26/SF. The Respondent also presented second quarter industry market reports which reported average asking lease rates for B class buildings at \$26 and higher.

Decision and Reasons:

The evidence of the Complainant was not compelling. The Board agrees with the Respondent 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. With respect to the Complainant's time adjustment, the Board did not agree that a straight line decline in rental rates could be derived from the data points on the graph. The data points were also too scattered for the best fit curve to be considered reliable, however the Board notes that the "B+ Class Rental Rate Analysis" (C5, P30) shows the rate at July 2009 to be \$24/SF not \$21 as requested.

The Board considered leases signed in the second quarter (Q2) of 2009 to be most reliable, and reviewed the leases in the DT2 zone presented by the Respondent, removing the obvious duplications:

Address	Lease Area (SF)	Lease start	Rental Rate
715 5 Ave SW	4818	04/01/2009	37.00
715 5 Ave SW	1878	04/01/2009	20.00
715 5 Ave SW	3185	04/01/2009	34.00
736 6 Ave SW	3886	04/01/2009	27.00
704 7 St SW	10893	04/01/2009	28.00
704 7 St SW	1964	04/01/2009	38.00
815 8 Ave SW	3000	04/01/2009	18.00
800 6 Ave SW	1008	04/01/2009	29.00
715 5 Ave SW	3201	05/01/2009	23.00
833 4 Ave SW	32547	05/01/2009	32.00
704 7 St SW	4052	05/01/2009	23.00
635 6 Ave SW	891	05/01/2009	15.00
704 7 St SW	2690	06/01/2009	14.00
700 4 Ave SW	4104	06/01/2009	16.37
700 4 Ave SW	2776	06/01/2009	19.00
700 4 Ave SW	4531	06/01/2009	18.50
700 4 Ave SW	4269	06/01/2009	29.50
Mean			24.79
Median			23.00
Weighted Mean			27.66

The Respondent submitted only the weighted mean, but the Board noted that it is substantially impacted by a single very large, high rental rate 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 \$24.79 and \$23.00/SF. The Board also noted that the most recent leasing activity in the subject building was at \$26/SF, a full year before the valuation date. The Board agrees that lease rates generally declined over the year between July 1, 2008 and July 1, 2009, and this supports a lease rate at the valuation date of less than \$26/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 building than the \$26 used in the assessment.

Issue 2: Capitalization rate

Both parties relied on the same capitalization rate presentation used for other class B buildings in hearings earlier in the day and the previous day.

Decision and Reasons:

The presentation and reasons for decision were detailed in CARB 1576/2010-P. However, the subject building is classified by both parties as a higher end B building, and generally as an A building in the industry classification chart submitted by the Complainant (C3 p105). The Board is of the opinion that its location, size and connection to the +15 system that serves the bulk of the downtown core makes the subject superior to a typical B class building. The capitalization rate applied should be at the lower end of the range, and the 8% applied is reasonable in view of the characteristics of the subject property.

Board's Decision:

The complaint is allowed, in part, and the assessment is reduced to \$126,760,000 based on \$24/sq. ft. office rental rate and no changes to any other parameters.

DATED AT THE CITY OF CALGARY THIS 30 DAY OF SEPTEMBER 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.*