

**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 LTD., COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***S. Barry, PRESIDING OFFICER***

***R. Clark, MEMBER***

***D. Cochrane, MEMBER***

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

<b>ROLL NUMBER:</b>	<b>067106708</b>
<b>LOCATION ADDRESS:</b>	<b>1177 11 AV S.W., Calgary, Ab</b>
<b>HEARING NUMBER:</b>	<b>58264</b>
<b>ASSESSMENT:</b>	<b>\$15,450,000</b>

This complaint was heard on 22 day of September, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *G. Worsley, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *D. Lidgren, City of Calgary*

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

The hearing was originally scheduled for September 23 but, with the consent of the Parties was heard on September 22, 2010.

Further, pursuant to *Matters Relating to Assessment Complaints Regulation* (M.R.A.C.) s.8(2)(c) the Respondent objected to the introduction of the Complainant's Rebuttal evidence because it was received one day late. In accordance with s.9(2) of M.R.A.C., the Board is precluded from hearing evidence that was not disclosed as per s.8(2)(c), above; specifically, at least 7 days before the hearing.

In this instance, the hearing date was scheduled for September 23, 2010. Applying the principles of Computation of Time related in s.22(3) of the *Interpretation Act*, RSA 2000, Chapter I-8, and using September 23 as the hearing date, the Rebuttal was due on September 15. According to the Respondent the Rebuttal was received on September 16. The Board has no record in its file of Rebuttal having been received and the Complainant acknowledges that he did not understand the interpretation of the legislation that excludes the date before the document is due.

The Board ruled that in the interests of natural justice and the failure of the record to note the receipt of the Rebuttal evidence, it would allow the production of the document. Having made that ruling, the Complainant subsequently chose not to submit the evidence.

**Property Description:**

The property is a mixed use office/retail commercial building, consisting of 59,874 sq.ft. of rentable area situated on a 0.40 ac parcel located in the Beltline Area. The land use district is Centre City Mixed Use District. Known as the Stephenson Building, the City classifies this property as a B+ building.

**Issues:**

The Complainant listed 15 grounds for appeal or issues on the Complaint Form, At the time of the hearing these were reduced to:

1. The use, quality and physical condition attributed by the municipality to the subject property is incorrect, inequitable and does not satisfy the requirement of Section 289(2) of the Municipal Government Act.

2. The assessed value should be reduced to the lower of market or equitable value based on numerous decisions of Canadian Courts.
3. The assessed office and retail operating cost adjustment should be \$15.50
4. The classification of the subject premise is neither fair, nor equitable, nor correct.
5. The assessment fails to take into consideration the cost of correcting major capital deficiencies in the subject property. An adjustment of \$170,000 should be subtracted from the current assessment including parkade delamination, boiler replacement, system automation and security.
6. The municipality has failed to recognize the tax exempt status of one or more tenants, of the subject property, based on the definitions outlined in Section 362 and 364 of the Municipal Government Act. There is an exempt tenant, Her Majesty the Queen, The Legislative assembly and the Baptist Union of Western Canada. The exemption should be \$3,080,000. This latter issue was withdrawn during the course of the hearing

At the outset of the hearing, these issues were further refined to withdraw #6, above, in the absence of evidence in the rent roll. Remaining for the Board to adjudicate are the following:

1. Is the property properly assessed as a B+ building?
2. Is the assessment of the office space correct and equitable having regard to the typical rental rate of \$20 per sq.ft. that was applied by the Assessor?
3. Are the operating costs correctly assessed at \$12 per sq.ft.?
4. Should an additional reduction to the assessment of \$217,500 be allowed to accommodate required building repairs and upgrades? This was amended to \$172,500 during the hearing.

**Complainant's Requested Value:** \$13,250,000

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

Issues 1 & 2: The Board has dealt with two previous properties on the same day with the same Parties with the same evidence or type of evidence and the same arguments for those properties as for this one. The Board finds that there is nothing in this Complaint to distinguish it from Roll #067136002, File # 58271, Written Decision CARB 1647/2010-P and Roll#067125609, File # 58270, Written Decision CARB 1646/2010-P. The Board finds that this is a B+ building and the rental rate of \$20 per sq.ft. is accepted by the Board.

3. Other than the information provided to support a request for an additional reduction in assessment, the Complainant provided no evidence to justify the increase in operating costs from \$12 per sq.ft. to \$14 as requested. The Respondent has provided a number of comparables to show that typical operating costs range from \$10 to \$12 per sq.ft.. The Board finds no evidence to change the applied operating costs of \$12 per sq.ft.

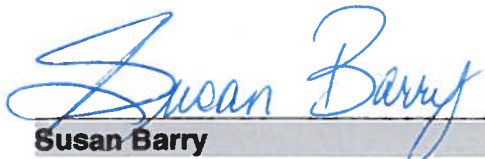
4. In support of his request for an additional reduction due to repairs and upgrades, the Complainant has provided an undated information request completed by the property manager that identifies items such as parkade delamination at \$80,000, Boiler replacement in 2009 for \$45,000, and system automation and security in 2010 for \$45,000. An additional email from the manager lists additional items identified in the 2010 capital budget required in 2010. These include as isolation valve installation, hot water tank replacement at \$6,500, upgrades to front planters for \$10,000 and washroom upgrades to accommodate handsfree operation. The Board notes that some of these items could not be considered exceptional capital expenses and are more usually considered normal maintenance and upgrades. There is no documentation that these items have been completed or invoiced or of a contractor's or engineer's assessment of need and specifications and estimated costs to complete. The Board rejects the request for an additional deduction from the assessment.

There are two additional items. The Respondent has shown in his valuation sheet that the total assessment has been reduced by \$1,160,000 for an exemption for the Baptist Union. Also, in reviewing these sheets, the Board observed that the valuation sheet sets the assessment at \$15,270,000 as opposed to the \$15,450,000 on the 2010 Property Assessment Notice. The Respondent was not able to explain the conflict but since both pieces of information were before the Board and the Complainant, the Respondent suggests that it is more equitable for the Board to accept the lower amount.

**Board's Decision:**

Having regard to the two assessment amounts contained in the evidence, the Board revises the assessment for 2010 to \$15,270,000.

DATED AT THE CITY OF CALGARY THIS 5 DAY OF October 2010.



**Susan Barry**  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:**

**NO. ITEM**

- | NO. | ITEM  |
|-----|---|
| 1.  | Complaint Form for Roll #: 067106708                  |
| 2.  | 2010 Property Assessment Notice for Roll #: 067106708 |
| 3.  | Complainant's Assessment Brief                        |
| 4.  | Respondent's Assessment Brief                         |

*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.*