

**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, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

J. Gilmour, PRESIDING OFFICER

P. Pask, MEMBER

S. Rourke, 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:	009023201
LOCATION ADDRESS:	1120 – 68 Avenue NE
HEARING NUMBER:	57610
ASSESSMENT:	\$19,470,000

This complaint was heard on 13th day of October, 2010 at the office of the Assessment Review Board located at 3rd Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- B. Ryan

Appeared on behalf of the Respondent:

- C. Neal

Property Description:

The subject property is a Suburban Office building located in the North East of Calgary. The property name is the "Novatel" building and consists of 86,457 sq. ft. of office space and 3,666 sq. ft. of storage space, for a total rentable area of 90,123 sq. ft. It is classified as an "A" building by the City. The property has a site area of 5.76 acres. The building was constructed in 1997.

Issues:

The only issue before the Board was a request by the Complainant to adjust the vacancy rate on the subject North East property from 9 percent to 14 percent.

The Complainant is seeking a reduced assessment of \$17,580,000.

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

In support of the City's determination that the vacancy rate in the North East of the City for Suburban Office space at 9 percent, it relied on a number of revised studies entitled "City of Calgary NE Quadrant Suburban Office Vacancy Study – 2010".

On page 26 of the Respondent's evidence package, 72 properties were identified as part of the above study, which resulted in a "mean vacancy" of 9.5 percent.

The Complainant argued that out of these comparable properties submitted by the City, nine should be excluded because they were single tenant or owner occupied properties and not comparable with the Complainant's properties. The Complainant also recommended to the Board that four comparable properties in the City study had rounding errors and should be adjusted.

Two properties that the Complainant stated had to be included in the review were the following:

- 1010 – 1 Avenue NE – Bridgeland Professional Centre – 29,007 sq. ft. rentable area but having vacant space of 8,737 sq. ft. = 30% in 2009.
- 1925 – 18 Avenue NE – Medallion Centre – 191,500 sq. ft. rentable area but having vacant space of 160,159 sq. ft. = 84% in 2009.

The Complainant also relied on third-party vacancy information that he argued was relevant statistical information in demonstrating that a vacancy rate for the subject premises of 9 percent is incorrect.

<u>REPORT</u>	<u>QUARTER NE</u>	<u>VACANCY RATE</u>
Avison Young	Q1 2009	20.6% vacant
		18.5 directly vacant
	Q2 2009	15.8% vacant
		14.0 directly vacant
Barclay Street	Q3 2009	20.1% vacancy rate
Cushman Wakefield	Q4 2009	17.9% vacancy rate
CB Richard Ellis	Q2 2009	13.6% vacancy rate
	Q3 2009	15.9% vacancy rate
Colliers International	Q2 2009	14.86% vacancy rate

Based on the above reports, the Suburban Office space in the North East of Calgary, included a vacancy range rate of 13.6% to 20.6% for 2009.

The Complainant also submitted a number of previous CARB decisions in evidence, dealing with vacancy rate for Suburban Office properties in the North East of Calgary:

<u>Decision Number</u>	<u>Location</u>	<u>Finding By The Board</u>
ARB 1074/2010-P (11 August 2010)	7661 – 10 Street NE	The City vacancy study was reviewed by the Board. The NE Suburban Office market vacancy as of July 1, 2009 = 14%, not 9%.
ARB 1089/2010-P (12 August 2010)	7315 – 8 Street NE	The 9% vacancy rates for NE Suburban Offices are too low. Typical NE Calgary Suburban Office market vacancy rate = 14%.
CARB 1421/2010-P (15 September 2010)	2116 – 27 Avenue NE	14% vacancy rate is appropriate for the subject NE office building.
CARB 1420/2010-P (15 September 2010)	1212 – 31 Avenue NE	14% vacancy rate is appropriate for the subject NE office building.
CARB 1422/2010-P (15 September 2010)	2675 – 36 Street NE	The vacancy rate should be increased to 14% for the NE office buildings.
CARB 1287/2010-P (6 October 2010)	3115 – 12 Street NE	9% vacancy allowance does not reflect the typical market conditions as of July 1,

CARB 1286/2010-P (6 October 2010)	3015 – 12 Street NE	2009, which is found to be 14%. 9% vacancy allowance does not reflect the typical market conditions as of July 1, 2009, which is found to be 14%.
CARB 1481/2010-P (15 September 2010)	5055 – 11 Street NE	The Board accepts the 14% vacancy rate for Suburban Offices in the NE quadrant.
CARB 1491/2010-P (7 October 2010)	1223 – 31 Avenue NE	The CARB agrees that the Bridgeland Professional Centre and the Medallion Centre should be included in the study. Vacancy rate adjusted to 14%.
CARB 1490/2010-P (7 October 2010)	2816 – 11 Street NE	The CARB agrees that the Bridgeland Professional Centre and the Medallion Centre should be included in the study. Vacancy rate adjusted to 14%.

The Respondent provided no previous Board decisions which contradicted or opposed the findings of the ten decisions rendered by the Board that the vacancy rate for Suburban Office properties in the North East of Calgary should be increased from 9% to 14%.

The Board had difficulty with the argument presented by the City that the Medallion Centre should be classified as an "outlier". This property was located in the North East and had a significant vacancy factor (per the City's second study) of 64%. Both the Bridgeland Professional Centre and the Medallion Centre, as noted in earlier Board decisions, should have been included in the City vacancy study for the North East office buildings.

It was also noted by the Board that several of the comparables in the study were located in the North West of Calgary (i.e. Country Hills). In attempting to clarify the "boundaries" of the North East quadrant, the Board reflected on the fact the City adjusts the boundaries to include other sections of the City to reinforce their valuation calculations. This practice is confusing to both the public as well as the Board.

Findings:

On the basis of at least ten previous decisions of this Board, this panel is concerned that the City continues to appear before us seeking a different outcome for the same issue – namely identifying the vacancy rate for Suburban Offices in the NE quadrant of the City.

At least two previous panels have ruled that the Bridgeland Professional Centre and the Medallion Centre should have been included in the vacancy study. All ten decisions have found that for these properties, the vacancy rate should have been increased from 9% to 14%.

For the above reason, the Board is perplexed why the City continues to appear on the same issue in an attempt to obtain a different outcome.

As this panel concurs with the findings of the previous ten decisions of the Board, the CARB determines the vacancy rate for the subject property should be increased to 14%.

Board's Decision:

The assessment is reduced to \$17,570,000.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF November 2010.



J. Gilmour
Presiding Officer

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.*