

**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, COMPLAINANT***

**and**

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

**before:**

***W. Kipp, Presiding Officer***

***K. Kelly, Board Member***

***J. Massey, Board 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: 067029199**

**LOCATION ADDRESS: 800 – 5 Avenue SW, Calgary AB**

**HEARING NUMBER: 59976**

**ASSESSMENT: \$90,100,000**

This complaint was heard by a Composite Assessment Review Board (CARB) on the 27<sup>th</sup> day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 7.

Appeared on behalf of the Complainant:

- D. Genereux

Appeared on behalf of the Respondent:

- W. Krysinski & A. Czechowskyj

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

This was one of 17 hearings regarding Class A and AA office buildings in the Calgary downtown. At the outset, the Complainant requested a postponement because notice for these hearings had been relatively short and a number of personnel from the Complainant company (Altus Group) were unavailable to attend and provide evidence. No alternative dates were suggested for a continuation.

The Respondent objected to the CARB granting any postponement, arguing that both parties had agreed to these current hearing dates and that there had been sufficient notice. Further, there had already been hearings and decisions rendered on "global issues" which pertained to all of the Class A-AA office building complaints so these hearings were to address "site specific" matters for those properties where there were site specific issues. There was no exceptional circumstance for granting a postponement. The Complainant was aware of these hearing dates, having agreed to them, and the individuals who had prepared the evidence materials should have been present and prepared to proceed.

**Decision of the CARB on the Postponement Request:**

The CARB denies the request for a postponement of the hearings. These hearings had been scheduled for the week commencing September 27<sup>th</sup>, with agreement of both parties, so both parties should have been prepared. Having regard to the Complainant's argument that the individuals who were familiar with specific properties and who had prepared the evidence materials for those properties were unable to attend the hearings, the CARB is accustomed to receiving evidence and hearing argument from someone other than the individual who inspected the subject property and prepared the documents.

The CARB is concerned that a postponement of these hearings until late November, which appeared to be the only alternative hearing dates, would not be practical given the number of outstanding complaints and the December 31<sup>st</sup> deadline for issuance of written decisions.

The CARB informed the parties that it would make every effort to arrange the order of the hearings to accommodate the parties in having the appropriate individuals present.

Section 15(1) of the *Matters Relating to Assessment Complaints Regulation* prohibits an assessment review board from granting a postponement or adjournment except in exceptional circumstances. The reasons given by the Complainant in this postponement request were not considered to be exceptional circumstances.

**Property Description:**

The property that is the subject of this complaint is a 23 storey Class A office building located in the DT2 downtown submarket area. The building, known as Trimac House has a rentable area of 238,247 square feet comprising office and retail space. Retail space is on the ground floor (5,002 square feet) and on the +15 level (3,710 square feet). There is underground parking for 141 vehicles. The building was constructed in 1983. The property is situated on the northwest corner of the intersection of 7<sup>th</sup> Street and 5<sup>th</sup> Avenue SW. There are no +15 connections.

**Issues:**

The Complainant raised the following matters in section 4 of the complaint form:  
*Assessment amount (No. 3 on the form) and Assessment class (No. 4 on the form).*

The Complainant also raised 15 specific issues in section 5 of the Complaint form however, most of these related to global or common issues that had been issues for all Class A and AA office property complaints from this Complainant. In the global argument relating to vacancy, the Complainant asked that the vacancy rate be increased from 3% to 8% for office space. The same request was made for this property, along with requests for changes in rent rates and capitalization rate. For this property, the assessment was based on an 8% vacancy rate for retail space but only 3% for office space.

At this hearing, the Complainant carried forward all of the arguments regarding global issues. There were no other issues that were specific to this property.

The Respondent carried forward all evidence and argument regarding the global or common issues. In this instance, however, the Respondent had reviewed the Complainant's evidence and re-examined the assessment criteria. The review indicated that the actual vacancy in the building had been consistently above the norm for a number of years. When there is a "chronic" vacancy over a period of at least three years, the Respondent recognizes it by applying a higher vacancy allowance. In this case, the vacancy allowance was increased to 10% and the assessment was recalculated. With the vacancy allowance change, the revised assessment was \$79,500,000.

**Complainant's Requested Value:**

\$67,676,600

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

Various Calgary CARB panels have heard the global or common issues evidence and argument at prior hearings regarding complaints against Class A-AA office building assessments and a number of decisions have been rendered in regard to those complaints.

The global issues were:

1. Office Rental Rate
2. Vacancy allowance
3. Capitalization rate

The most recent decision, CARB 1657/2010-P, issued on 27 September 2010, dealt with each of these three global issues. The findings and reasoning will not be repeated but are carried forward to this decision.

The findings on these three issues remain the same as in that prior decision.

The reasoning for the decisions based on the findings remains the same.

For details of the findings and reasons for decision, CARB 1657/2010-P should be read.

The CARB accepts the Respondent's analysis of chronic vacancy in the subject property and the recalculation of the assessment based on a 10% vacancy allowance.

**Board's Decision:**

The 2010 assessment is reduced from \$90,100,000 to \$79,500,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF OCTOBER. 2010.

  
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W. Kipp  
Presiding Officer

**SUMMARY OF EXHIBITS**

**Exhibit**

C1 Assessment Review Board Complaint Form  
C2 Evidence Submission of the Complainant  
C3 Complainant's Rebuttal Evidence  
R1 Respondent's Assessment Brief  
Plus previously filed documents regarding global or common issues.

*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.*