

**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: 067073098

LOCATION ADDRESS: 645 – 7 Avenue SW, Calgary AB

HEARING NUMBER: 58562

ASSESSMENT: \$140,280,000

This complaint was heard by a Composite Assessment Review Board (CARB) on the 27th 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. Krynski & A. Czechowskyj

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

This was the first 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 27th, 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 31st 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 Class A office building located in the DT2 downtown submarket area. The building, known as Encor Place has a rentable area of 359,772 square feet comprising office and retail space. Retail space comprises a small shop on the ground floor and a breakfast/lunch restaurant on the +15 level. There is underground parking for 109 vehicles. The building was constructed in 1987. The property is situated on the southeast corner of the intersection of 6th Street and 7th Avenue SW. There is a platform station for Calgary's Light Rail Transit (LRT) system in front of the building on 7th Avenue. There are two +15 connections – one over 7th Avenue to the J.J. Bowlen Building and one over 6th Street to Elveden Centre.

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 14 specific issues in section 5 of the Complaint form however, these related to global or common issues that had been issues for all Class A and AA office property complaints from this Complainant.

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.

Complainant's Requested Value:

\$108,909,000

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 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 issues. The findings and reasoning will not be repeated in 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.

Board's Decision:

The 2010 assessment is confirmed at \$140,280,000.

It is so ordered.

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



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

C1 Assessment Review Board Complaint Form
C2 Evidence Submission of the Complainant
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.*