

**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: 067023309

LOCATION ADDRESS: 500 – 4 Avenue SW, Calgary AB

HEARING NUMBER: 57861

ASSESSMENT: \$113,740,000

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 & G. Worsley

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 by this Complainant 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 denied 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.

The hearings proceeded at 9:30 AM on September 27, 2010.

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 Altius Centre has a rentable area of 310,225 square feet comprising office, retail and storage space. Retail space comprises 3,940 square feet on the ground floor and 2,813 square feet on the +15 level. There is no underground parking for this building – parking is provided in an adjoining above ground parkade (on a separate assessment roll). The building was constructed in 1973. The property is situated on the northwest corner of the intersection of 4th Street and 4th Avenue SW. There is one +15 connection – over 4th Street to Shell 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 16 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 two equity issues that were specific to this property. One was the rental rate that should be applied to retail space and the other was the rental rate that should be applied to storage space.

Complainant's Requested Value:

\$112,907,300 if only retail and storage rents are reduced

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.

The rental rate arguments were equity based, largely based on the change in class from Class A to Class A- or B+. A comparison was made to Chevron Plaza at 500 – 5 Avenue SW, Plains Midstream at 607 – 8 Avenue SW and Selkirk House at 555 – 4 Avenue SW, all Class B+/- buildings. The information on these other buildings showed that office space was assessed using a lower rent rate but there was no detail regarding rent rates applied to retail or storage space. A July 1, 2009 rent roll in the Complainant's evidence showed a main floor retail space lease commencing in January 2007 at a rent rate of \$15.00 per square foot. On the +15 level, a March 2006 retail space lease started at a rent of \$14.00 and escalated to \$16.00 per square foot during the 7 year term.

In support of the request for a reduction in the rent rate applied to storage space, the Complainant provided partial assessment summary reports for 10 other buildings where storage space was assessed at \$10.00 per square foot.

With respect to the classification argument made by the Complainant, the Respondent provided copies of rent rolls and responses to Assessment Request For Information (ARFI) forms used by the City of Calgary. There was one lease that commenced in July 2008 at a rent of \$16.50 per square foot for two years but escalated to \$39.00 and then \$41.00 per square foot during the 6 year term. That, in the opinion of the Respondent, supported the \$30.00 per square foot rate used in making the assessment of the subject as a Class A building. ARFI information showed that there had been no retail space leases since 2006 and that was too far back in time to be meaningful for valuing a property in 2009.

The Respondent did concede that \$10.00 per square foot might have been a more appropriate rate for storage space, however, when applied to the 5,274 square feet of storage space in the building, the reduction in the assessment would be miniscule.

In summary, the Respondent pointed out that if the CARB reduced the assessed rates on both retail and storage space, the resulting reduction in the assessment would be less than one percent.

Findings:

The CARB had no compelling evidence before it to warrant making any change to the assessment. The classification matter had been heard and decided on as a global issue in prior complaint hearings. In this instance, there was no evidence of inequities in the application of the \$21 and \$24 per square foot rates applied to retail space. Having regard to the rate applied to storage space, the CARB finds that \$10 per square foot would be a more equitable rate, however, the change in total assessment would be insignificant.

Board's Decision:

The 2010 assessment is confirmed at \$113,740,000.

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.*