

**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: 068227305

LOCATION ADDRESS: 333 – 4 Avenue SW, Calgary AB

HEARING NUMBER: 58781

ASSESSMENT: \$217,250,000

This complaint was heard on the 28th 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 one of 17 hearings regarding Class A and AA office buildings in the Calgary downtown that were scheduled to be heard during the week of September 27 to October 5, 2010. 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.

Property Description:

Calgary Place – a two building complex over a two level retail podium on an 89,689 square foot land parcel between 4 and 5 Avenues SW on the east side of 3 Street SW. The buildings are 23 and 29 storeys high and contain a total of 610,333 square feet of rentable area, including 14,043 square feet of retail space on the +15 level, 30,891 square feet of main floor retail space and 23,558 square feet of theatre space. There are 276 parking stalls, but none are assessed on this roll number. The development was completed in 1969. This Class A office complex is located in the DT1 Downtown market area.

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 but most of these related to “Global issues” which were the basis of the complaints on all downtown Class A and AA properties where Altus Group was the Complainant as agent for the various owners.

There was one issue (retail rent rate) that was specific to this property:

*The market retail main floor area should be 29,592 sq. ft. and rental rate should be \$25 psf
The market retail second floor area should be 18,212 sq. ft. and rental rate should be \$30 psf.*

At this hearing, the Complainant carried forward all of the arguments regarding global issues and argued that all of the retail space should be assessed at a rate of \$28.00 per square foot. The amount of retail space was not an issue at the hearing.

Complainant's Requested Value:

\$163,929,600 based on global and site specific issues
\$209,100,000 if only retail rent rate is adjusted

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 rental rates, vacancy allowance rates and capitalization rate for Class A and AA properties were all found to be reasonable.

The reasoning for this decision, based on the findings, remains the same as in CARB 1657/2010-P. For details of the findings and reasons for decision, CARB 1657/2010-P should be read.

With respect to the retail space, the Complainant argued that the applicable rent rate should be \$28.00 per square foot. A comparison was made to the assessments of retail space located on the 8th Avenue (Stephen Avenue) Mall. Assessors recognized the superiority of Mall properties by applying a lower capitalization rate in the income approach valuations. The rents applied to the superior Mall retail space should set the upper limit and retail space in other buildings should be correspondingly lower. A table of rents in a nearby office complex, Bow Valley Square, was included to show that weighted average rents for both main and second floor retail space should be \$28. The weighted average of rents in properties on the Mall was from \$44 to \$47 per square foot. The lower \$28 rate should be applied to retail space in the subject Calgary Place complex.

Speaking to the Complainant's argument that Stephen Avenue Mall retail space is superior and is treated differently by City assessors, the Respondent pointed out that a lower capitalization rate is applied to some properties on the Mall, such as Eaton Centre and TD Square because of the nature of those developments which are more like a regional shopping centre. Those developments comprise three levels of high quality retail space that covers a large area over two to three blocks. For the subject, rents are set at typical levels for retail space in Class A buildings and comparisons must be made to other similar buildings and not just to those on the Stephen Avenue Mall.

The Respondent included a rent roll for the subject property. Leases for retail space in the property were older leases and therefore rents were not indicative of those in 2009. Another table of 2008-2009 lease data for main and +15 level retail space in Class A buildings showed weighted average rents of \$39.71 and \$49.60 per square foot, respectively. These comparable rents, it was argued, support the rates used in the assessment valuation.

Findings:

The CARB has addressed its findings and decision regarding global issues previously in this decision.

For the retail rent argument, the CARB finds the evidence of the Respondent to be superior. Lease comparables were from a number of Class A buildings. Leases had commencement dates during 2008 and 2009. Leased areas covered a range of sizes.

Board's Decision:

The 2010 assessment is confirmed at \$217,250,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF OCTOBER 2010.



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

Prelim. C1 Email – Complainant Postponement Request
C1 Assessment Review Board Complaint Form
R1 Respondent's Assessment Brief
Plus documents relating to Class A and AA global/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.*