

**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: 068031004**

**LOCATION ADDRESS: 400 – 4 Avenue SW, Calgary AB**

**HEARING NUMBER: 58502**

**ASSESSMENT: \$267,680,000**

This complaint was heard on the 28<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. 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 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:**

Shell Centre: A 691,753 square foot Class A office building on a 65,404 square foot site in the DT1 market area of downtown Calgary. Total rentable area includes retail space of 9,447 square feet on the main floor and 28,953 square feet on the +15 level. There are 86 underground parking stalls. The 32 storey office building was completed in 1976.

**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 18 specific issues in section 5 of the Complaint form but at the hearing, focused on six issues:

1. *"The assessed office area should be 639,195 sq. ft.*
2. *The market office rental rate should be \$27.00 p.s.f.*
3. *The assessed Lower Retail area should be 8,891 sq.ft. @ \$28.00 p.s.f.*
4. *The assessed Upper Retail area should be 12,617 sq.ft. @ \$22.25 p.s.f.*
5. *A 2<sup>nd</sup> floor Recreational space of 22,312 sq.ft. @ \$10.00 should be applied.*
6. *The assessed storage area should be 9,729 sq.ft."*

The Complainant also carried forward all of its evidence and argument on global issues for Class A-AA office buildings.

**Complainant's Requested Value:**

\$198,751,697 – based on global and specific issues

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

The Complainant argued that a tentative lease arrangement with the major tenant, Shell Canada, sets the office space rental rate. An email message to the Respondent from the property manager stated that Shell would lease 658,608 square feet (the "Full Bldg") at a face rental rate of \$25 per square foot, starting in June 2010. The November 2009 rent roll indicates that Shell has a lease expiring in 2013 at a rental rate of \$37.00 per square foot. Based on the property manager's advice, the Complainant requested a rate of \$27.00 per square foot for assessment purposes.

On the +15 level, the Complainant requested that the retail space rental rate be reduced to \$22.25 per square foot for 12,617 square feet and to \$10.00 per square foot for 12,617 square feet used as recreational space. The Complainant could not identify the 12,617 square feet and the source of that area measurement was not made known. The November 2009 rent roll did not show any retail space leases within the valuation parameter time period (July 1, 2008 to June 30, 2009).

For the recreational space, the Complainant relied upon evidence that had been filed previously for

global issue arguments.

There was no further evidence or argument on the issues.

**Respondent's Position:**

Firstly, the Respondent addressed the global issues and the Complainant's argument regarding conference centre assessment. All of these issues had been heard and decided upon. CARB decisions 085/2010-P and 1657/2010-P were referenced. These decisions had also considered the amenity space issues.

Having regard to the rentable area, the Respondent pointed out that the March 2009 response to the Assessment Request For Information (ARFI) indicated a total rentable area of 692,744 square feet, 991 square feet more than was actually assessed. The Respondent was not aware of any recreational space and could not reconcile the amount of space the Complainant claimed was recreational space. Further, the rent roll supported the space allocation reflected in the assessment.

For the office rental rate, the Respondent stated that the information provided by the Complainant regarding a possible new lease arrangement with Shell was unreliable. The email noted that the deal had not been signed as at July 23, 2010, the data of the email and that there was no additional information about lease terms, including an end of term date.

**Findings**

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.

Global issues were:

1. Office Rental Rate
2. Vacancy Allowance
3. Capitalization Rate
4. Recreational/Amenity Space

The most recent decision, CARB 1657/2010-P, issued on 27 September 2010, dealt with each of these issues. The findings and reasoning will not be repeated in this decision.

The findings on these 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 Complainant claimed that there was recreational space in the building but could not identify where that space was located nor how the area measurement was made. The CARB has previously found that recreational space should not be discounted and it upholds that finding in this decision.

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.

There is insufficient evidence before this CARB that might compel any changes in assessment rates.

**Board's Decision:**

The 2010 assessment is confirmed at \$267,680,000.

It is so ordered.

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

  
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W. Kipp  
Presiding Officer

**SUMMARY OF EXHIBITS**

**Exhibit**

Prelim. C1      Emails Re: Complainant's Postponement Request  
C1                Assessment Review Board Complaint Form with Attachments  
C2                Evidence Submission of the Complainant  
R1                Respondent's Assessment Brief  
Plus Previously Filed Documents regarding global issues for Class A-AA offices

*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.*