

**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: 068034891

LOCATION ADDRESS: 112 – 4 Avenue SW, Calgary AB

HEARING NUMBER: 58498

ASSESSMENT: \$171,080,000

This complaint was heard on the 29th 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:

- A. Czechowskyj

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

This complaint had been scheduled for a later date. The subject property is one part of a two property complex known as Sun Life Plaza and the other property was on the agenda for hearings during the week of September 27 to October 5. It was agreed between the parties that this complaint should be brought forward and heard in conjunction with the complaint against the assessment of the Sun Life West property.

Decision of the CARB on the Request:

The CARB accepted the recommendation from the parties to move this hearing forward. It was heard the day after the hearing on the other Sun Life Plaza property in order to provide the parties with sufficient time to assemble their evidence.

Property Description:

Sun Life Plaza - East: A 410,168 square foot Class A office building on a 69,838 square foot site in the DT1 market area of downtown Calgary. Total rentable area includes retail space of 8,000 square feet on the main floor and a 2,575 square foot food court on the +15 level. There are 271 underground parking stalls. The 28 storey office building was completed in 1982.

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 19 specific issues in section 5 of the Complaint form but at the hearing, focused on the following issues:

1. *"The rental rates are requested as follows:*
 - a. *Office: from \$30 to \$24*
 - i. *Equity is requested at \$28*
 - b. *Food Court: from \$120 to \$60 – locational factors indicate that no food court tenant will sign for anything higher. There has never been a lease greater than \$65 at Sunlife Plaza*
 - c. *Equity with similar retail is suggested to be revised to \$28 from \$40*

2. Building is charging operating costs of \$19 psf . Current assessment \$17.50"

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

Complainant's Requested Value:

\$158,658,000 based on equitable office rental rate of \$28, \$30 on retail, \$60 on food court and \$19 operating costs

Board's Decision in Respect of the Issues:

Complainant's Position:

The Complainant provided a lease summary for the building. There is only one tenant in the office space – Suncor Energy Inc. Most of the 391,424 square feet of space is leased at \$20.00 per square foot pursuant to a lease that commenced in 2002, however, there had been some more recent leases, the most recent of which commenced on May 1, 2008. This lease for 68,577 square feet had a rental rate of \$20.95 per square foot. Correspondence and lease negotiation documents for various tenants in the Sun Life Plaza property (both the west and east towers) was included to support the lower rent rate request. Some of the data pertained to dates beyond July 1, 2009.

From the equity perspective, the Complainant provided a table summarizing rental rates on eight other DT1 properties. Lease rates ranged from \$20.00 to \$36 per square foot and the median was \$28.00. These properties were assessed using an office rental rate of \$28.00 per square foot. The Complainant claimed that the subject property had been reclassified for assessment purposes but that there had been no physical changes to the property. It was argued that if the subject was comparable to the other listed properties in the past then it should still be comparable.

The lease summary showed retail rents as well. Some dated lease data showed rents as low as \$12.00 per square foot (6,305 square feet – 2005 lease). More recent leases (2008 and 2009) showed rental rates from \$45.00 to \$65.00 per square foot. These were for relatively small areas (259 to 626 square feet) such as would be found in food courts. Based on this lease data, the Complainant requested that the rates for assessment calculations be reduced to \$30.00 per square foot for retail space (8,000 square feet) and to \$60.00 per square foot for food court space.

The rent rolls showed that Sun Life Plaza tenants were billed \$12.64 per square foot for operating expenses plus \$6.35 per square foot for realty tax in the east tower. Tenants in the west and north towers were billed similar amounts. Based on these charges, the Complainant requested that the operating cost amount for calculation of vacancy shortfalls be increased from \$17.50 to \$19.00 per square foot.

Respondent's Position:

Firstly, the Respondent addressed the global issues and the Complainant's argument. All of these issues had been heard and decided upon. CARB decisions 085/2010-P and 1657/2010-P were referenced.

The Respondent included a summary of leasing in all buildings in Sun Life Plaza which indicated a weighted average rent rate of \$30.97 per square foot. This summary included leases on office and retail/food court space. A table of downtown Class A rents showed a weighted mean for leases of more than 10,000 square feet of \$31.77 per square foot. The Respondent provided a 2010 Business Assessment Notice for the Suncor Energy Inc. space showing that business assessments were based on \$30 per square foot. For consistency, that rate should be maintained for the property assessment as well.

The Respondent stated that retail space, like any other space, is assessed using "typical" rates and the rates used are typical in Class A buildings. Having regard to the food court space, the Respondent stated that those assessed rates were based on mass appraisal applications but that the rate of \$120 per square foot may have been a little aggressive for this property.

The "typical" argument was put forward regarding operating costs. The Respondent does an analysis of these costs and uses industry reports to verify their accuracy. A report by CresaPartners for the second quarter of 2009 showed that the average cost in Class A buildings was \$17.60 per square foot and that supported the \$17.50 rate adopted for assessment calculations. Further argument for using a typical rate was that management can impact operating costs from one property to another.

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

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 global issues remain the same as in prior decisions. 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.

The CARB finds that a rental rate of \$28.00 per square foot is applicable to the office space. The equity comparables presented by the Complainant were persuasive. Although some of the actual lease information presented was outside of the pertinent valuation analysis period, it did support a lower rental rate.

For the retail and food court space, the CARB found no evidence to support any reduction in the rate applied to the 8,000 square feet of retail area but the food court space was definitely over-assessed

at \$120 per square foot. The appropriate rate should be \$60.00 per square foot.

The Respondent's argument and evidentiary support for operating costs was compelling. There are many factors that can impact on costs. Unless there is an exceptional circumstance for increasing the cost rate, the typical rate should be used. It is appropriate that all buildings within a class should be valued using "typical" cost amounts.

Board's Decision:

The 2010 assessment is reduced from \$171,080,000 to \$159,860,000.

It is so ordered.

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



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

- C1 Assessment Review Board Complaint Form
 - C2 Evidence Submission of the Complainant
 - C3 Complainant's Requested Assessment Calculations
 - 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.*