

**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: 068049097

LOCATION ADDRESS: 125 – 4 Avenue SW, Calgary AB

HEARING NUMBER: 58495

ASSESSMENT: \$468,720,000

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 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:

TCPL Tower: A 931,185 square foot Class AA office building on a 52,115 square foot site in the DT1 market area of downtown Calgary. Total rentable area includes retail space of 8,807 square feet on the main floor and 8,911 square feet on the +15 level. There are 560 underground parking stalls). The 35 storey office building was completed in 2001. The building is connected to Calgary's downtown +15 system.

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 at the hearing, focused on one issue:

1. The 560 parking stalls should be assessed using a monthly rental rate of \$450 rather than \$525

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

Complainant's Requested Value:

\$463,321,000

Board's Decision in Respect of the Issues:

Complainant's Position:

The Complainant provided a copy of a CresaPartners market report for the 3rd Quarter of 2007. In that report, it showed that TCPL Tower parking rates were \$440 for reserved parking stalls and \$375 for unreserved stalls. For the 3rd Quarter of 2008, the rates were \$480 and \$425 respectively and for the 2nd and 3rd Quarters of 2009, \$480 and \$425 respectively. For 2009, other Class AA buildings had rates from \$520 to \$600 for reserved stalls and from \$450 to \$525 for unreserved stalls (unchanged from the 2008 report).

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 pointed out that the rate applied to parking stalls in Class AA buildings is \$525. Typical rates, according to the Respondent's study, are actually \$550.

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.

For some components of any downtown office building, such as underground parking, the Respondent applies "typical" rates in order to achieve equity. The CARB finds that this is a reasonable approach to take. If actual parking rates in the subject building are different than typical, there could be any number of reasons for that variance but none have been presented to the CARB in evidence.

Board's Decision:

The 2010 assessment is confirmed at \$468,720,000.

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 Emails Re: Complainant's Postponement Request
C1 Assessment Review Board Complaint Form
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.*