

**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: 201027760

LOCATION ADDRESS: 207 – 9 Avenue SW, Calgary AB

HEARING NUMBER: 59161

ASSESSMENT: \$161,910,000

This complaint was heard on the 19th day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- D. Genereux & G. Worsley

Appeared on behalf of the Respondent:

- A. Czechowskyj & W. Krysinski

Property Description:

Penn West Plaza: This is a property with two office towers. As at the condition date of December 31, 2009, one of the towers was completed and it was assessed using the income approach. The second tower was incomplete but substantially finished so a flat amount was added for construction in place. The completed tower is 10 storeys high with 229,147 square feet of office space, 13,117 square feet of retail space and 112 square feet of storage space. The property is on the south side of 9 Avenue SW, west of 1 Street SW in the DT1 downtown market area. There are 153 parking stalls assessed to this building. This office building was completed in 2007/08. 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 14 specific issues in section 5 of the Complaint form but at the hearing, focused on one issue:

1. *"The building should be assessed as a class "A" office building to be equitable with similar new buildings, and reflect industry rankings"*

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

Complainant's Requested Value:

\$128,900,000 if assessed as a Class A building

Board's Decision in Respect of the Issues:

Complainant's Position:

The Complainant argued that the completed building should be classed as an A building because it has the same characteristics as a number of other Class A buildings in the same area. Its location

on the south side of 9 Avenue SW with no significant +15 connections and its height of just 10 storeys make it comparable to other newer Class A buildings such as Bankers' Court, Centrium Place and Plains Midstream. Other Class A buildings in the DT1 Area are assessed using a \$30 per square foot rental rate for office space and \$40 and \$50 per square foot rates for retail space at the main and +15 levels, respectively but the subject should be assessed on the basis of \$27 per square foot for office and \$30 per square foot for retail space. The \$27 rate is supported by the actual lease to Penn West Petroleum which is at \$26.50 per square foot, starting in September 2007. Two main floor restaurants were leased at \$30 per square foot (9,782 square feet – October 2008 lease start) and \$40 per square foot (2,562 square feet – July 2009 lease start).

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 many of the Complainant's arguments related to building classification which had already been considered and decided upon by the CARB.

The Respondent stated that the Penn West Petroleum lease, while showing a commencement date in September 2007, had actually been negotiated in 2005. There was no supporting documentation. This tenant will also occupy a significant amount of space in the new tower at a rental rate of \$34.95 per square foot, starting in 2010.

The assessment is based on the completed tower valued using Class AA parameters plus an addition of \$39,377,027 as "partial development value" for the second, larger tower. That addition was based on 30% of the building permit value of \$171 million but, as could be seen in photographs of the building, it was much more than 30% complete as at December 31, 2009.

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 has a mixture of outdated and *post facto* information in evidence for this complaint. It appeared from the evidence and testimony that the Complainant was not aware that the roll number is for both of the office buildings – the completed one and the partially complete one. There are similarities to the other Class A buildings in evidence from the Complainant but the requested rents are lower than those applied to the other Class A buildings. The only office space lease in the subject was two years old, at best, as at the valuation date. The Respondent suggests the rate was set four years prior to July 2009.

As a standalone office building, its location and physical characteristics might put it into a Class A category, however, it is built to Class AA standards, according to the Respondent, and it is one of two buildings.

Being assessed using an income approach, the existing building value would be for the building plus its proportionate amount of land. The partially completed building was added, at a low amount it would seem, based on a percentage of permit value. There was no indication that anything was added for the land beneath the second building.

After considering all of the evidence and argument, the CARB is convinced that this property is not over-assessed.

Board's Decision:

The 2010 assessment is confirmed at \$161,910,000.

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
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.*