

**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, Section 460(4).

**between:**

***Altus Group Ltd, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***R. Mowbrey, PRESIDING OFFICER***

***I. Zacharopoulos, MEMBER***

***A. Wong, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

**ROLL NUMBER: 048039002**

**LOCATION ADDRESS: 1925 18 AV NE**

**HEARING NUMBER: 57709**

**ASSESSMENT: \$43,920,000**

This complaint was heard on the 1<sup>st</sup> day of November, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- B. Ryan Agent

Appeared on behalf of the Respondent:

- A. Jerome Assessor
- S. Powell Assessor

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

Upon questioning by the Presiding Officer, the parties present indicated they had no objection to the composition of the Board.

In addition, the Board could not see any circumstances that might raise an apprehension of bias.

After the Complainant's evidence was presented, the Respondent asked the Board for an interim ruling on the shell space, as the Presiding Officer had been the Presiding Officer with the "Keynote" property, which the Complainant was using as an identical comparable with an identical issue regarding shell space. In addition, there were other comparables that the Complainant was using as well to support the shell space issue. The Board recessed, deliberated and rendered a decision to the parties. The decision was not to render an interim decision and that would be up to the Respondent to continue or not. The Respondent chose to continue with the hearing.

Under rebuttal evidence the Complainant advised the Board that the total size should be 196,693 square feet, (Exhibit C-2 page 92), instead of the 185,520 square feet. (Exhibit C-1 page 335). The Respondent challenged the Complainant and advised the Board that the increase in size was new evidence and should not be allowed. The Board recessed, deliberated and rendered a decision. The decision was the larger size under rebuttal would not be allowed. Although the Complainant stated the subject property should include characteristics and physical condition as at December 31<sup>st</sup>. 2009, the Board stated that characteristics and physical condition does not extend to size.

**Property Description:**

The subject property has two suburban office buildings located in NE Calgary in the community of Vista Heights. The smaller 9,500 square foot building is fully occupied and completed in 2004. The larger four stories, 183,000 square foot building was completed in 2008 and remains largely vacant in a shell without tenant improvements. There are a total of 271 parking stalls. The 2010 assessment is \$43,920,000.

**Issues:**

During the hearing the parties agreed to a number of issues:

1. The parties agreed to 271 parking stalls at \$1200 per stall per year.

2. The parties agreed to a vacancy rate of 14% for NE Calgary on suburban office buildings. The Complainant gave a number of Board decisions that support the 14% in NE Calgary. All the Board decisions on suburban office buildings in NE Calgary have found that 14% vacancy is reflective of the NE market. The Board accepts the conclusion of those decisions, and finds a 14% vacancy rate appropriate for the subject NE suburban office building.
3. Both parties agreed to the \$20 per square foot for the office portion of the subject property.
4. There was no dispute regarding the capitalization rate of 7.5% for the subject property.
5. Both parties agreed the recreational gym space was miscoded, and the space should be recoded as recreational space, with its accompanying rate of 9.00 per square foot.
6. Therefore the only issue before the Board is: When was the subject property fully completed and what is the correct assessment on the subject property's "shell space.?"

**Complainant's Requested Value:**

The Complainant's requested value is \$30,070,000.

**Board's Decision in Respect of each Matter or Issue:**

6. When was the subject property fully completed and what was the correct assessment on the subject property's "shell space?"

The Complainant provided evidence to the Board regarding the issue of assessment on shell space. Section 314(2) of the MGA states the assessor must prepare supplementary assessments for other improvements if they are completed in the year which they are to be taxed and they are occupied during all or any part of the year. The Complainant argues that more than 75% of the building was vacant in December 2009. The Complainant argues that an improvement, to be considered complete, must be occupiable, although not necessarily occupied at the time of the supplemental assessment.

The Complainant provided photographs to the Board, showing the condition of the subject property.

The Complainant demonstrated to the Board that the Respondent had allowed a significant assessment decrease on other buildings during construction and not occupiable. One building known as Deerfoot Junction (3225 12<sup>th</sup>. St. NE) was adjusted by 50% as the space was completely gutted and renovated, the shell space being similar to the subject property. (Exhibit C-1 pages 293 /294). Another example of the City allowing significant discounts on buildings during construction is known as the Medical Centre. (906 8 AV SW). The adjustment factor was 50% during the construction period. (C-1 page 301). In both instances, the assessed rental rates had been reduced by 50% and the Complainant seeks the same consideration for the subject property.

A further example is the Keynote building (1100 1<sup>st</sup>. ST. SE), whereas the composite assessment review Board reduced the shell space assessment by 50%. (Exhibit C-1 pages 305-306).

The Complainant under rebuttal pointed out to the Board that the Respondent's photographs did demonstrate the shell space, and the building was not complete.

The Respondent provided evidence to the Board that the building was complete and ready for

occupancy. The Respondent provided a number of photographs for the Board to show support for the completed building. (Exhibit C-1 pages 11-17).

The Respondent provided evidence regarding the terminology "complete." "Mr. Lidgren said that under the MGA as stated, "complete" did not mean having all the components in place as claimed. He said that complete meant that the essential components were in place (mechanical, HVAC, electrical, etc.) and that all necessary inspections had been done and the owner could finish a building according to a tenant's requirements at the time the lease was struck. Occupancy permits were important as well as fully completed inspection certificates. He said this met the intent of the Act, and was typical for this type of new construction."

The Respondent confirmed the Complainant's referenced properties have been assessed as described. However, the Respondent contends the subject assessment should not be similarly revised as the vacant space in question (90,000+/-) within the subject building was (unlike the Complainant's referenced comparables) in fact ready for tenant improvements and available for lease.

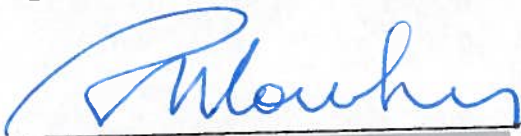
The Board finds that when an occupancy permit has been issued and cannot be occupied because the tenant improvements have not been installed, the area is not complete and should not be fully 100% assessed. (Exhibit C-1 page 305).

The Board finds the Complainant has demonstrated the subject property as "atypical" within the NE suburban office market. As such, the assessment calculation should not be based on the calculation of assessments for properties exhibiting "typical" characteristics. The Complainant's request is based on an equity argument which the Respondent has not effectively refuted. The Board therefore accepts the Complainant's proposed revision as logical and supported by City valuation procedures. (Exhibit C-1 page 335).

#### **Board's Decision:**

The decision of the Board is to reduce the 2010 assessment of \$43,920,000 to \$30,070,000.

DATED AT THE CITY OF CALGARY THIS 10<sup>th</sup> DAY OF NOVEMBER 2010.



**R. Mowbrey**  
Presiding Officer

*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.*

**Exhibits:**

**C-1 Complainant's evidence (337 pages).**

**C-2 Complainant's rebuttal evidence (94).**

**R-1 Respondent's evidence (166 pages).**