

**COMPOSITE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, (MGA) Chapter M-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

D. Julien, MEMBER

J. Mathias, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) 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: 200109866

LOCATION ADDRESS: 2524 – 66 Avenue SW

HEARING NUMBER: 59426

ASSESSMENT: \$18,480,000.

This complaint was heard on 8th day of November, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- J. Weber

Appeared on behalf of the Respondent:

- E. Currie
- D. Lidgrin

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

The Assessor advised the CARB that the assessment of the subject property has been revised and accordingly brought forth a recommendation of \$17,090,000 which is based upon revised rental rates being applied. While the Complainant accepts the revised rental rates, the revised assessment is not acceptable as there still remains another issue which may have an impact upon the assessed value of the property.

Property Description:

The property under complaint is a sub-urban located, walk-up style apartment complex which consists of two 4 storey buildings containing a total of 123 suites consisting of 62 one bedroom units and 61 two bedroom units. The complex was originally constructed in 1971. One of the buildings was heavily damaged by a fire in 2007 resulting in that building being uninhabitable until October of 2009 at which time an occupancy permit was issued for the reconstructed building.

Issues:

While page 3 of the Complainant's Exhibit C-1, identifies three (3) issues, one of those issues, the matter of the assessed rents, has been resolved by the Assessor having revised the assessed value of the property through application of different assessed rents. That being the case, only two issues remain to be given consideration by the CARB and they are:

1. The subject assessed vacancy is not indicative of market vacancy.
2. The subject suffers from chronic vacancy.

Complainant's Requested Value:

The Complainants request is to revise the assessed value to: \$12,510,000.

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

It is the contention of the Complainant that the subject property suffers from chronic vacancy in that one of the buildings has been vacant for approximately two years as a result of a fire which rendered that building uninhabitable. In support of this contention the Complainant introduced (Exhibit C-1 pgs 22 & 23) a rent roll for the month of April 2009 which clearly shows 62 units as being vacant. Additionally, the Complainant submitted (Exhibit C-1 pg 27) a page from the *Assessment Request For Information* (ARFI) dated April 27/09 which also indicates 62 units as being vacant. Similarly on page 36 of Exhibit C-1 is a page from the ARFI for the preceding year, dated April 28/08, indicating 63 units to be vacant. Based upon this evidence the Complainant requests that a vacancy rate of 25% be applied in determining the assessed value for the property.

The Respondent introduced (Exhibit R-1 pg 35) a copy of a *Building Occupancy Permit* #8114, dated October 1/09 for the building in question (Lakeview Mews Building B) and based upon this evidence contends that the subject was available for occupancy as at the legislated condition date (MGA Section 289(2)(a)).

The CARB does not agree with the Complainant's contention that the subject property suffers from chronic vacancy. Chronic vacancy, as the name implies, would imply on-going vacancy over an extended period of time with little likelihood for a change in the situation in the near term. The CARB does not believe this to be the case with the subject property. There is no question that the property suffered significant vacancy as a result of the fire; however, the second building remained, and continues to remain, at or better than normal vacancy levels. The evidence of the Respondent shows that an occupancy permit was issued as of October 1/09 and there is evidence of some units being leased since that time. As a result of this occupancy permit being issued it would be normal market influences that would have an effect upon the vacancy levels of the property and it would be normal to expect that full lease-up of the property might require a reasonable period of time. In accordance with MGA Section 289(2)(a) the physical characteristics and condition of the property was such that occupancy was readily available as at Dec. 31/09. While it may be that the subject property was not available for occupancy at the valuation date it is important to understand that the July 1 valuation date refers to the prevailing market conditions as at that date. The physical characteristics and condition date of Dec. 31 relates only to the physical condition of the property as at that date, not the prevailing market conditions. The result of the foregoing is that the physical condition of the property being available for occupancy must be aligned with the market conditions of July 1. In other words the subject is deemed to have been readily available for occupancy as at the valuation date of July 1. The CARB concurs with the revised rents as applied by the Assessor which have resulted in a revised assessment for the property and the Complaint is allowed in part to reflect this revision.

Board's Decision:

The assessment is **reduced** to **\$17,090,000**.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF November 2010.


CLJ GRIFFIN
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.*