

**COMPOSITE
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 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: 123187312

LOCATION ADDRESS: 9700 Bonaventure Drive SE

HEARING NUMBER: 58974

ASSESSMENT: \$55,150,000.

This complaint was heard on 10th 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:

- I. Pau

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

There were no matters pertaining either Procedure or Jurisdiction brought forward at this Hearing.

Property Description:

The property under complaint is a large, sub-urban located apartment complex which, according to the City of Calgary Multi-Residential Detail Report, contains a total of 330 suites. The complex is comprised of 10 individual buildings, all of which are 3 storey walk-up in design. The suite mix consists of 255 two bedroom units and 75 three bedroom units. The complex was originally constructed in 1968.

Issues:

While there are a number of inter-related grounds for complaint identified on the complaint form, at the Hearing the Complainant confirmed, as identified on page 3 of Exhibit C-1, that there are only two issues to be argued before the CARB and they are:

1. The subject assessed rents are in excess of market rent and
2. The vacancy rate applied by the Assessor is not indicative of market vacancy.

Complainant's Requested Value:

The Complainant's requested assessment is: \$47,600,000.

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

The Complainant advised the CARB that the suite composition as recorded by the Assessor is not accurate and that the correct suite composition is 2 one bedroom units, 197 small two bedroom units, 56 large two bedroom units and 75 three bedroom units. It is the contention of the Complainant that the rental rates applied by the Assessor are not indicative of the market rental rates for the subject property as at the Date of Value. It is further contended by the Complainant that the applied vacancy rate of 2% is not appropriate and that a vacancy rate of 5% is more reflective of market conditions as at the Date of Value. In support of their rental rate argument, the Complainant introduced (Exhibit C-1 pgs 20 - 24) a rent roll for the subject property dated July 31/09 on which the Complainant has highlighted fifty-eight (58) leases signed between Jan. 1/09 and July 1/09 which they maintain are indicative of the market rents for the subject property as at the July 1/09 valuation date. Ten of these leases relate to the large two bedroom units, thirty-five relate to the standard (small) two bedroom units and thirteen relate to the three bedroom units. The Complainant further introduced (Exhibit C-1 pg 33) an extract from the *Alberta Assessors' Association Valuation Guide* (AAAVG) which, under the heading *Determining Market Rents as of the Valuation Date* states "For most tenants the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of "market" rents are (in order of descending importance): Actual leases signed on or around the valuation date." It is the contention of the Complainant that the aforementioned 58 leases are, in accordance with the AAAVG, the best evidence as to the market rents for the subject property as at the valuation date which they contend are: \$1,000/month for the one bedrooms, \$1,100/month for the standard (small) two bedrooms, \$1,200/month for the large two bedrooms and \$1,250/month for the three bedrooms.

In support of their request for a higher vacancy rate of 5% as opposed to the applied vacancy rate of 2%, the Complainant introduced (Exhibit C-1 pg 37) a vacancy study compiled by Boardwalk, both the city's and the country's largest residential landlord which indicates a city-wide vacancy for the period June '08 to July '09 of 4.76%, which they maintain supports the requested 5%. Additionally, the Complainant provided on pages 39 through 69 of Exhibit C-1 the *CMHC Rental Market Report, Calgary CMA Fall 2009* which indicates that the apartment vacancy rate rose 3.2 percentage points from 2.1% in October 2008 to 5.3% in October 2009.

In support for their applied rental rates, the Respondent introduced (Exhibit R-1 pg 29) a city prepared *Zone 9 Rent Analysis from 2009 ARFI* chart which, based upon 10 properties indicates the typical rents to be \$1,050/month for one bedroom units, \$1,275/month for two bedroom units and \$1,350/month for three bedroom units. The Respondent further introduced (Exhibit R-1 pg 65) an extract from the *Assessment Request For Information (ARFI)* for the subject property, which has a fax transmission date of May9/08, indicating the rents for the subject property range from a low of \$1,000/month to a high of \$1,250/month. In support of their applied 2% vacancy rate, the Respondent introduced (Exhibit R-1 pg 28) a copy of the *2010 Roll Year Multi-Residential Low Rise Vacancy Survey* as prepared by the City of Calgary. It is the contention of the Respondent that the aforementioned vacancy survey is more reliable than the CMHC vacancy study because the city report relates to low rise developments only. The said vacancy report indicates a Median Vacancy rate of 1.8%, relates to 1,446 suites with 33.4 suites vacant and a weighted vacancy of 2.31%. The Respondent also introduced into evidence (Exhibit R-1 pg 30) an equity comparison chart pertaining to four properties and the subject property. This chart clearly shows that these four other properties have been assessed using the same parameters as those applied to the subject property.

The CARB finds the evidence of the Complainant relating to signed leases on or about the valuation date to be compelling and notes that the AA AVG supports this evidence as being "*the best evidence of "market" rents*". The CARB further notes that the Respondent concurs with this concept. The CARB further finds the rent roll introduced by the Complainant (Exhibit C-1 pgs 20 – 24) to be much more complete than the one page extract from the ARFI introduced by the Respondent (Exhibit R-1 pg 65), which the CARB noted does not support the typical rents applied by the Respondent. The CARB finds the *Zone 9 Rent Analysis from 2009 ARFI* chart introduced by the Respondent to be devoid of supporting data. The CARB notes that the equity comparison chart introduced by the Respondent shows the assessed value per suite of the subject property to be at minimum approximately \$10,000/suite and at maximum approximately \$20,600/suite higher than the four properties considered, by the Respondent, to be equitably assessed. This is not compelling evidence as to the equity of the assessment of subject property in relation to other properties deemed similar by the Assessor. As a result of the foregoing the CARB accepts the rents put forth by the Complainant to be more indicative of market rents for the subject property.

Insofar as the vacancy issue is concerned, the CARB notes that the *Low Rise Vacancy Study* introduced in the evidence of the Respondent appears to be seriously flawed in that the suite counts in over 50% of the properties referenced are not accurate. In that the Respondent was unable to explain these discrepancies, the CARB finds the entire study to be unreliable and of little, if any, value in determining the correct vacancy for the subject property. The CARB is disappointed that the Respondent would not proof their materials more closely before submitting same as evidence. As a result of the foregoing the vacancy argument of the Respondent, in this case, fails and the argument of the Complainant prevails.

Board's Decision:

The assessment is **reduced** to: \$47,600,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF November 2010.



C. J. 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.*