

**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, 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: 067077495

LOCATION ADDRESS: 635 – 8 Avenue SW, Calgary AB

HEARING NUMBER: 58461

ASSESSMENT: \$96,740,000

This complaint was heard on the 25th day of November, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 4.

Appeared on behalf of the Complainant:

- D. Genereux

Appeared on behalf of the Respondent:

- A. Czechowskyj

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

This was one of many complaint hearings regarding Class A and AA office buildings in the Calgary downtown that were heard during the Summer and Fall of 2010. The Complainant had disclosed evidence and argued for changes in assessments of Class A and AA office buildings on a number of grounds that were referred to as "common" or "global" grounds or issues. These included office and retail space rental rates, vacancy rates and capitalization rates.

The Respondent had disclosed evidence and argued that the rates used to prepare assessments on these classes of property were supported and therefore fair and equitable.

Decisions of the CARB on the Common Issues:

The CARB has rendered numerous decisions regarding the global issues. These decisions made no adjustments to assessments. For individual properties, the CARB heard evidence and argument on site specific issues.

In this complaint hearing, both parties carried forward their evidence and arguments regarding global or common issues. The CARB did not rehear any of the global evidence or argument but received evidence and argument on issues that were specific to the property that is the subject of the complaint.

Property Description:

The building formerly known as "CanOxy Building": A 271,378 square foot Class A- office building on a 17,603 square foot site on the southeast corner of 8th Avenue and 6th Street SW in the DT2 market area of downtown Calgary. Total rentable area includes retail space of 6,150 square feet on the main floor and 1,698 square feet on the +15 level. There are 56 underground parking stalls. The 26 storey office building was completed in 1981. The building is connected to Calgary's downtown +15 system and has a direct connection to the City of Calgary's Centennial Parkade which runs along 9th Avenue between 5th and 6th Streets SW.

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 five issues:

1. *"The market office rental rate should be \$27 p.s.f.*
2. *The assessed cap rate should be 8%*
3. *The assessed office vacancy should be 8%*
4. *Assessed rents for storage space should be corrected. Storage space based on equity should be \$10.00*
5. *Assessed rents for parking stalls should be corrected. Parking Rates based on equity should be \$400.00"*

All of these issues stemmed from the comparison of the subject property to other properties that were assessed as lower class office buildings (subject is assessed as an A- while the comparables were mostly B+ buildings and the requested rates were those applied in assessing B+ buildings).

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

Complainant's Requested Value:

\$79,866,200

Board's Decision in Respect of the Issues:

Party's Positions:

The Complainant provided a recalculated income approach incorporating the changes as requested in the issues list. Included was the requested office market rental rate of \$27 per square foot. An alternative calculation was provided with all of the same changes except for the office rental rate which was left at the \$28 per square foot rate as used by the Respondent.

Support for the requested rates was in several forms:

Office Rental Rate:

The Complainant provided a copy of a portion of a rent roll as at April 10, 2010. Three leases were summarized. One, a lease to the Government of Canada on 20,784 square feet on the 3rd and 4th floors indicated a gross rental rate of \$33.98 per square foot. The lease commenced July 1, 2009 and had a 10 year term. The way in which the rent roll table was structured showed that this tenant paid no additional amounts for operating costs or for realty taxes. Based on operating cost and realty tax rates for other leases, the Complainant deducted \$13.29 and \$5.53 to indicate a net rental rate of \$14.55 per square foot. Under a column headed "Other Charges," there was an amount of \$52,316 and a rate of \$30.21. This rate appeared to be a rate applied to the leased floor area. The Complainant could not explain this "Other Charges" amount.

An August 1, 2009 lease to Ipsos Reid Corporation was for a five year term on 8,224 square feet of office space (no floor number was shown). This lease had a rental rate of \$28.00 per square foot. Additional rent was \$13.29 per square foot for operating costs and \$5.53 per square foot for realty

taxes. This lease provided for "Other Charges" of \$4,392 which was a rate of \$6.41 (again, unexplained by the Complainant).

The third lease on the rent roll was for 1,805 square feet of office space leased to Parkland Industries for three years from September 1, 2009. The rental was \$22.00 per square foot, the operating cost rate was \$13.29 per square foot and the realty taxes rate was \$5.53 per square foot. "Other Charges" for this lease were \$763 which indicated a rate of \$5.08 (unexplained as well).

For the three new leases, the average net rental rate was \$21.00, the median was \$22.00 and the weighted average was \$18.00. The Complainant argued that these leases supported the request to assess all office space in the building on the basis of a rental rate of \$27 per square foot.

A copy of a rental rate summary from the Respondent's evidence was included in the Complainant's brief. In this summary, the Government of Canada lease was included, indicating that \$33.98 was a net rate.

The Respondent maintained that the Assessment Request For Information (ARFI) response showed the Government of Canada rental rate as \$33.98 per square foot and there was no indication on the response that this was a gross rate and not a net rate. Notwithstanding, the removal of this lease information from the Respondent's rental rate analysis or reducing the rate to \$14.55 would have minimal impact on the indicated weighted mean which was based on more than 50 leases in Class A buildings. In the opinion of the Respondent, a copy of the lease should have been provided in the Complainant's evidence to show that the lease specified a gross rent.

With respect to the Respondent's Class A rental survey chart, the Complainant pointed out that the Respondent had selected a rate of \$28 for Class A office space whereas the weighted mean range from its analysis was from \$31.77 to \$33.12. Given that there was no explanation provided for the \$28 selection, it could just as easily have been \$27.

The Respondent offered no explanation for the \$28 rate selection.

The Complainant found five other downtown office properties that it considered to be comparable to the subject. Office rental rates used in making the assessments of these properties were:

Chevron Plaza:	\$28
Fifth & Fifth:	\$26
Watermark Tower:	\$28
Encana Place:	\$26
Royal Bank Building:	\$28

While comparable in some respects, the Complainant considered most of these properties to be superior to the subject with respect to office quality, thus the data would further support the requested \$27 rate. The average of the five rates was \$27.02.

Capitalization Rate, Vacancy Rate, Storage Space Rental Rate & Parking Stall Rental Rate:

All of these rates requested by the Complainant relate to Class B buildings which the Complainant considers to be comparable to the subject (see the five buildings listed above). For these buildings, parking stalls were assessed on the basis of a rental rate of \$400 per month. All of the assessments were based on 8% vacancy allowances and 8% capitalization rates. No actual rental or vacancy data was provided for the comparables or the subject so comparisons could not be

made on that basis.

For the storage rental rate argument, the Complainant provided assessment data for several Class B and Class A buildings where storage space was assessed using a rate of \$10 per square foot. The Respondent conceded that there were a number of Class A properties where the \$10 rate was applied to storage space but that had been done in error. The standard rate for storage space in Class A buildings is \$12 per square foot and that has been applied in the majority of assessments.

The subject property is located in the DT2 downtown business zone. In support of the Class A-designation on the subject property, the Respondent listed five other A- buildings in the DT2 zone. It was argued that comparisons must be made between similar properties in the same business zone whereas the Complainant had made comparisons to Class B buildings in different zones. All of the five DT2 Class A- properties had been assessed on the basis of a \$28 per square foot office rent, a \$475 per stall per month parking stall rent, a 3.0% vacancy allowance and a 7.5% capitalization rate – the same rates as were applied to the subject. Several of the properties used in the comparison process by the Complainant had their assessments altered following negotiations with owners/agents and thus the details could not be said to be applicable to other buildings in the same class. The Complainant denied knowledge of any negotiated settlements on other properties and maintained that they had similar characteristics to the subject and all similar properties should therefore be assessed in a similar manner. If that is not done, there is inequity.

The Complainant maintained that determinations of building class must be made on the basis of physical characteristics and attributes of properties and that its five properties selected for comparison all had similar characteristics regardless of their zone locations. Further, the Respondent had provided no details of its five A- comparison properties so there was no way to tell how similar they were.

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

A 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 rates 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 the site specific issues in this complaint, they are essentially all included in the classification issue. Is the subject property a Class A- or a Class B+ property?

The CARB finds the evidence to be somewhat confusing. Each of the parties has provided equity comparables that, on the surface, appear to have similarities to the subject property. Yet, these properties have variations in the rates that went into the assessments. On a physical comparison basis, the CARB would have appreciated additional detail on the Respondent's comparables but was nevertheless satisfied that they were similar Class A- properties within the same DT2 zone as the subject.

When considering equity as it pertains to property assessments, the equity comparisons must be made between similar properties that are representative of the class. While there was no evidence in front of the CARB, there was argument that several of the comparables chosen by the Complainant were unique and therefore not representative of the class. The singular factor that made them unique was the fact that their assessments had been altered through negotiation with owners/agents and they were therefore no longer representative of the class.

The CARB has concern about the very broad range of classes for downtown offices that the Respondent uses for assessment purposes. Properties in the Class A category can be further designated as A+, A or A-. Sub-classifying properties apparently leads to some different input rates but the CARB is not sure which ones might change according to subclass. For example, within the B+ Class, there are examples of office space rental rates of \$26 and \$28 per square foot. It is apparent that all Class A properties are given a vacancy allowance of 3.0% and are valued using a 7.5% capitalization rate. There is no reason why input rates, such as office rental rates or parking stall rental rates, cannot vary within a class when it is apparent that they already vary within a subclass. The CARB finds that it would be much simpler to deal with a singular argument about a rental rate rather than to have to deal with arguments about whether a property is a Class A or a Class A- property. Sub-classification appears to lead to greater confusion in many instances. If there were only Class A, B, C or D properties, arguments over classification might be reduced and only individual rates might be disputed.

In this instance, the CARB has apparently comparable property data put forward by each of the parties. None of it, however, is sufficiently compelling to cause the CARB to make any changes to the subject assessment. It may be that greater equity would be achieved by altering the rental rate on storage space or by reducing the monthly parking stall rental rate but these changes would bring about minimal changes to the total assessment and would therefore not be warranted.

Board's Decision:

The 2010 assessment is confirmed at \$96,740,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF NOVEMBER 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.*