

**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:

J. Gilmour, PRESIDING OFFICER

J. O'Hearn, MEMBER

V. Nesry, 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:	111180204
LOCATION ADDRESS:	1016 68 Avenue SW
FILE NUMBER:	56427
ASSESSMENT:	\$ 10,660,000

This complaint was heard on the 26th day of November, 2010 at the office of the Assessment Review Board located at 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *B. Bickford*

Appeared on behalf of the Respondent:

- *M. Ryan*

I. Relevant Legislation:

Municipal Government Act

s. 289 (2)

Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property

s. 293 (1)

In preparing an assessment, the assessor must in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations

Matters Relating to Assessment and Taxation Regulation (MRAT)

s. 2

An assessment of property based on market value

- (c) "must reflect typical market conditions for properties similar to that property"

II. Property Description:

The subject property is a two storey suburban office building constructed in 1976 and located in the southwest of Calgary just off Glenmore Trail.

The rentable area consists of 53,871 SF on a site area of 1.9 acres.

The building has been 100 percent vacant since February 2009 and was still vacant on December 31, 2009. It was classified by the City as a "B" class building.

III. Requested Assessment:

\$ 5,330,000

IV. Issue:

What is the assessed value for the subject property?

V. Summary of Complainant's Evidence:

The Complainant requested a 50 percent reduction of the current assessment on the following grounds:

- In accordance with s. 289(2) of the MGA, the property has been 100 percent vacant since the only tenant left the property in February 2009. On December 31, 2009 the property was still 100 percent vacant and still undergoing renovation.
- The current assessment has valued the subject as a fully functioning office building, which it is not.
- The single tenant gave notice to the owner of the building in November 2008 that he will be quitting the premises by February 2009.
- The Complainant argued that the renovations undertaken by the owner was to bring the premises up to the existing City building codes.
- In 2009 in an oral decision, the ARB reduced the assessment by 40 percent to recognize the pending vacancy and the interior demolition of the interior of the property. The City did not appeal this decision.
- In CARB decision 1085/2010-P dated the 2nd of September 2010, the Complainant relied on the following determination of the Board on page 5:
"While the Act does not define complete and occupied, the Board's decision is 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 percent assessed. The Board agrees with the Complainant and finds the assessment at 50 percent for the unoccupied portion to be fair and equitable".
- For the 2010 assessment years, the City gave a 50 percent assessment reduction for a property at 906 8 Avenue S.W. which was being converted from a medical center to a building for use by the University of Calgary. No complaint was filed in this case.

VI. Summary of Respondent's Evidence:

There were no sales comparables listed in the Respondent's evidence.

The City argued that instead of tenant improvements to the subject property, the Complainant was improving the building in the future from a "B" class building to an "A" class building, although the permits still showed that the building was still undergoing basic renovation requirements.

The City was only allowing a 6 percent vacancy allowance in the valuation of its assessment.

The equity comparisons submitted by the City were given very little weight by the Board.

VII. Board Findings:

The assessed value for the subject property is 50 percent of the current assessment because

the property was 100 percent vacant as of 31 December 2009.

VIII. Board Reasons for the Decision:

The Board agrees with the Complainant that the assessment must reflect the characteristics and physical condition of the property on December 31, 2009, as described by s. 289(2) of the MGA.

The Board examined the photographs presented by the Complainant taken in 2009 that renovations were still being undertaken by the owner of the building to renovate the premises.

Although the City speculated that the owner was attempting to upgrade the building from a "B" classification to an "A", there was no evidence produced at the hearing to substantiate such claims.

Both parties agreed that there was 100 percent vacancy in the building from February to the end of December 2009.

The Board also considered previous decisions of the ARB in 2009 and the CARB in 2010 concerning the same issue.

IX. Decision of the Board:

The assessment is reduced to \$5,330,000 which the Board considers is fair and equitable.

DATED AT THE CITY OF CALGARY THIS 2nd DAY OF DECEMBER 2010.



J. Gilmour

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.*