

**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	Location Address	Hearing Number	Assessment
065048605	3380 Spruce Dr SW	57764	\$16,140,000
065048704	1 Hemlock Cr SW	57769	\$12,100,000
065048803	9 Hemlock Cr SW	57774	\$12,100,000
065048902	21 Hemlock Cr SW	57847	\$8,070,000

This complaint was heard on 15th day of November, 2010 at the office of the Calgary Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- J. Weber Agent, Altus Group Ltd.

Appeared on behalf of the Respondent:

- R. Natyshen Assessor, The City of Calgary

Procedural or Jurisdictional Matters:

There were no preliminary matters raised. The merit hearing proceeded accordingly.

Property Description:

The four properties under appeal are separately titled but adjoining parcels, forming one large multi-family rental complex known as Spruce Ridge Estates, located in the Spruce Cliff district of SW Calgary.

All four properties were constructed in 2002 and consist of similar 2.5 storey, low-rise apartment buildings with varying numbers of suites but having a consistent and equal suite mix of one and two bedroom units. All four properties have been similarly assessed with rental rates of \$1,200 for the one bedroom and \$1,400 for the two bedroom suites. Additionally, a 2.00% vacancy allowance and 11.00 Gross Income Multiplier (GIM) were applied uniformly to arrive at the current assessments.

Roll Number	Address	Total Suites	1 Bedroom	2 bedroom
065048605	3380 Spruce Dr SW	96	48	48
065048704	1 Hemlock Cr SW	72	36	36
065048803	9 Hemlock Cr SW	72	36	36
065048902	21 Hemlock Cr SW	48	24	24

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:

Roll Number	Location Address	Assessment	Requested Value*
065048605	3380 Spruce Dr SW	\$16,140,000	\$13,860,000
065048704	1 Hemlock Cr SW	\$12,100,000	\$10,400,000
065048803	9 Hemlock Cr SW	\$12,100,000	\$10,400,000
065048902	21 Hemlock Cr SW	\$8,070,000	\$6,930,000

* Truncated value, based on an increase in the vacancy from 2.00% to 4.75% and a reduction in rents from \$1,200 to \$1,049 per month on the one bedroom units and from \$1,400 to \$1,249 per month on the two bedroom units.

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

It is the contention of the Complainant that the assessed rental rates are within about \$50 per month of the actual face rents achieved in the subject. However, these rates require further reductions to reflect the rent inducements offered by the property owner to compensate for weak market conditions as they related to the rental market in Calgary 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 4.75% is more reflective of market conditions as at the Date of Value.

In support of their rental rate and inducement argument, the Complainant introduced (Exhibit C-1 pgs 15 - 33) a summary of rents in the subject for Q1 and Q2 of 2009 and rental inducements offered by the property owner for one year leases for all of their Calgary properties, including the subject properties. It should be noted that the owner of the subject properties is the largest residential apartment landlord in the City and indeed in the entire country. These lease inducements typically range from \$100/month to \$200/month rental reductions granted upon the signing of a one year lease. It was apparent that 2/3 of the new leases signed in 2009 had incentives and there was evidence of over 1200 rental incentives throughout the Boardwalk portfolio. The Complainant further introduced (Exhibit C-1 pgs 34 - 40) extracts from the *Alberta Assessors' Association Valuation Guide* 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." Further, under the heading *Rent Adjustments - Inducements* this same source states "Inducements must be considered when establishing the appropriate market rent for the space. The value of the inducement spread out over a reasonable term should be deducted from the base rent." The Complainant also introduced (Exhibit C-1 pg 48) a definition of *Common Net Effective Rent* as prepared and approved by the *Real Property Association of Canada* (RealPac) and the *Appraisal Institute of Canada* (AIC) which states "Common Net Effective Rent is the true Rent related to a certain lease transaction, based on the present value using the common discount rate, of all Rent receivable by a Landlord over the initial fixed term, less the present value of all tenant inducements, free rent periods and commissions payable, with such remainder present value then amortised over the fixed initial term."

In support of their request for a higher vacancy rate (4.75%) as opposed to the applied vacancy rate (2%), the Complainant introduced (Exhibit C-1 pgs 112 – 114) a vacancy study compiled by the property owner for both Calgary – southwest and Calgary – city wide, both of which more than support the requested 4.75%. Additionally, the Complainant provided on pages 116 through 146 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.

The Respondent reiterated to the CARB that the revised and recommended assessments stemmed from their further review of the *Assessment Request For Information* (ARFI) sheets for the subject properties, which they suggest makes no mention of the rent inducements. It was further suggested by the Respondent that it was unfair of the property owner to provide information to their tax agent that had not been supplied to the Assessor. The Respondent also pointed out that the ARFIs submitted to the Assessor by the property owner shows that not all of the reported, germane leases had been provided by the Complainant and that explained why the Assessor's recommended rents are somewhat higher than the rents suggested by the Complainant. In support of their applied 2% vacancy rate, the Respondent introduced (Exhibit R-1 pg 52) 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 2%, relates to 154 suites with 3.64 suites vacant and a weighted vacancy of 2.37%.

The CARB finds that the Respondent failed to provide any evidence in support of the derivation of the applied typical rent rate. The Respondent put forward an undated rent roll covering the four properties under appeal indicating rents in chronological sequence commencing August 2000. The Complainant provided numerous examples of leases signed within the first six months of 2009 for both one and two bedroom units within the complex. This provides the best evidence of market lease rates relevant to the current assessment valuation date.

The CARB is convinced by the evidence of the Complainant that the rent inducements do indeed need to be accounted for as is clearly pointed out in the *Alberta Assessors' Association Valuation Guide*. As a result of the foregoing it is the judgment of the CARB that the typical rents to be applied to the subject properties should be the median face rates per the Altus rent analysis less the inducements of \$100/month.

Insofar as the vacancy issue is concerned, the CARB notes that the Low Rise Vacancy Study introduced in the evidence of the Respondent is flawed in that the suite counts are not accurate. For example the said study refers to 5337 – 26 Ave. SW, as having only 30 units as opposed to the 181 actual units. The Assessor was unable to articulate how the column in the chart headed "Number Suites Vacant" could reasonably include non-whole numbers such as 0.18, 0.27 and 1.08. In that the Respondent was unable to explain these discrepancies, the CARB finds the entire study to be unreliable and of little value in determining the correct values for the subject properties. The Complainant adequately supported their request though a monthly vacancy chart for the subject and other SW low-rise apartment buildings, along with CHMC market data.

Board's Decision:

The assessments are **reduced** as follows:

Roll Number	Location Address	Hearing Number	CARB Decision
065048605	3380 Spruce Dr SW	57764	\$13,860,000
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DATED AT THE CITY OF CALGARY THIS 15th DAY OF DECEMBER 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.*