

**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 a Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER: 062089701

LOCATION ADDRESS: 401 Patterson Hill SW

HEARING NUMBER: 57760

ASSESSMENT: \$11,590,000.

This complaint was heard on 8th day of December, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- B. Neeson

Appeared on behalf of the Respondent:

- E. Currie

Procedural or Jurisdictional Matters:

Both parties agreed to request the CARB to cross reference this Complaint to CARB WR 2135-2010-P which was argued before this same panel by these same parties on November 8/10. All of the issues are common to both this Complaint and the referenced Complaint and the evidence from both parties is essentially identical to that put forward at the referenced Hearing. The Respondent also indicated that, having reviewed both their information and the information of the Complainant, they were prepared to recommend a revised assessment, based upon the application of \$1000/Mo. rents for the one bedroom units and \$1150/Mo. for the two bedroom units, of \$10,762,752 as found on page 20 of Exhibit R-1. Both parties agreed to submit their evidence in written form for the CARB to review and consider. The CARB agreed to this request and thanks the parties for their consideration of the CARB's time as it relates to this Hearing.

Property Description:

The subject property is, according to the City of Calgary 2010 Multi-Residential Detail Report, a two building complex which contains 28 one bedroom suites and 48 two bedroom suites for a total of 76 suites. Both of the buildings are 3 storey walk-up in design. The complex was originally constructed in 1982.

Issues:

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

1. The subject assessed rents are in excess of market rent
2. The rent inducements offered by the property owner have not been considered and
3. The vacancy rate applied by the Assessor is not indicative of market vacancy.

Complainant's Requested Value:

The Complainant revised their requested assessment to: \$9,480,000

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

It is the contention of the Complainant that the revised rental rates suggested by the Assessor, while close to those being proposed by the Complainant, 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 5% is more reflective of market conditions as at the Date of Value. In support of their rental inducement argument, the Complainant introduced (Exhibit C-1 pgs 22 - 35) a summary of rental inducements offered by the property owner for one year leases for all of their Calgary properties, including (Exhibit R-1 pg 32) the subject property. It should be noted that the owner of the subject property is the largest residential apartment landlord in the City and indeed in the entire country. These lease inducements typically offer a rent reduction of \$100/month granted upon the signing of a one year lease. The Complainant further introduced (Exhibit C-1 pgs 71 - 77) 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 85) 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 (5%) as opposed to the applied vacancy rate (2%), the Complainant introduced (Exhibit C-1 pg 24) a vacancy study compiled by the property owner for Calgary – city wide, which at 4.76% supports the requested 5%. Additionally, the Complainant provided on pages 39 through 70 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 property (Exhibit R-1 pgs 28 – 29), 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. In support of their applied 2% vacancy rate, the Respondent introduced (Exhibit R-1 pg 30) 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 818 suites with 23.98 suites vacant and a weighted vacancy of 2.93%.

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 those recommended by the Assessor less the inducements of \$100/month for both one bedroom suites and two bedroom suites. The resulting rents are \$900/Mo. and \$1050/Mo. respectively.

Insofar as the vacancy issue is concerned, the CARB notes that the Low Rise Vacancy Study introduced in the evidence of the Respondent reports non-whole numbers in the Number of Suites Vacant column. It was discerned that the vacant suites were interpolated from the reported vacancy (dollar amount) on the ARFI for each of the properties referred to in the study; however, these numbers have been extracted from the financial reports for the year ended Dec. 31/08. In the judgment of the CARB this makes the information less reliable as it does not give consideration to the evident change in market conditions that occurred in the first half of 2009. The CARB accepts the vacancy argument and evidence of the Complainant as being more reliable than that put forth by the Respondent.

Board's Decision:

The assessment is reduced to: \$9,480,000.

DATED AT THE CITY OF CALGARY THIS 21 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.*