

**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, Revised Statutes of Alberta 2000 (the Act).

between:

Altus Group Limited (Walter Symanczyk), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

D. Trueman, PRESIDING OFFICER

Y Nesry, MEMBER

D Morice, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER: 068118702

LOCATION ADDRESS: 402 - 11 Avenue SE

HEARING NUMBER: 64146

ASSESSMENT: \$9,780,000

This complaint was heard on the 15th day of August, 2011 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:

- *G. Worsley*

Appeared on behalf of the Respondent:

- *D. Satoor*

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

The parties agreed that there were no issues of a procedural or jurisdictional nature with respect to this hearing.

Property Description:

The subject property is a four-story building known as the Pilkington Building and often referred to as the Critical Mass Building because, according to the December 2009 rent roll, Critical Mass Inc was its single tenant. It was constructed in 1913, and received extensive rehabilitation and modernization in 2000. There are 51,588 ft.² of rentable area on a land base of 25,975 ft.² or .60 acre, which provides also 43 surface parking stalls. The improvements, which are located in the Beltline neighbourhood of Calgary, have been placed on a list of properties which are being considered for "Heritage" designation, see exhibit C1 page 68.

Issues:

The complaint form outlined a list of 8 items on which he said that his complaint was based. At hearing the complainant spoke to:

- 1/ the building is classified by the assessor as "A" class and is in fact more similar to "B" class buildings based upon the rental rate (net effective rate) it is achieving
- 2/ other buildings similar to the subject are being assessed using an 8.5% capitalization rate and therefore the City's use of a 7.75% capitalization rate is too low.

The complainant made clear to the panel that the surface parking component of the subject improvements was not part of his complaint.

Complainant's Requested Value: \$7,440,000 or \$6,780,000

Complainant's position,

Issue #1 The complainant pointed out that the subject property assessment was reduced for the 2010 assessment year based upon a rental rate argument and that the City has, without explanation, raised the rental rate in the 2011 assessment year. He pointed out that the subject property had been extensively renovated in 2000 and that little had been done since that time. He advised the panel that the neighbourhood has several such renovated properties and that some have been given a "Heritage" designation which the complainant implied reduces value.

According to the complainant, since his building is being considered for this designation, confirmation for a reduced value is apparent. He said that typically these properties achieve rental rates in the range of \$12-\$17 and that this was a typical rate for his property. At page 21 of exhibit C1, the complainant presented a chart which he entitled Beltline Heritage Office Leasing Analysis. This chart depicted a significant number of leases signed in the period from July 2009 to July 2010 with average and median rates shown in the \$16 to \$17 per Sq. foot range. This chart also pointed out, specifically the Lorraine building located at 620 12 Avenue SW, which had recent leases at \$22 and \$23 per sq. foot and for which the assessor had used a \$14 per sq. foot rental rate for assessment purposes. In particular the complainant pointed the panel to a lease signed on May 16, 2010 in the Ribtor West building. This lease was for 24,642 ft.², which is similar to the large area leased in the subject property and the rate was for \$16.83 per Sq. foot. He said that this was the best indication of market lease rates for the subject property. On page 23 the complainant presented a chart of several older Beltline office buildings and pages 24 through 55 provided detail for some of the buildings on the chart. These were identified as the Customs House, the Demcor building, the Lorraine Apartments and 1018 Macleod Trail. The thrust of this information was that in his opinion these buildings are all similar to the subject and in 2009 had similar assessments to the subject while in 2010 their assessments were reduced. Currently the assessor is assessing these buildings as "B" class buildings and using a \$14 per square foot rental rate.

Issue #2 As support for this issue the complainant provided the capitalization rate used by the assessor for each of the above assessed properties as 8.5%.

The appendix of the complainant's presentation, identified as exhibit C1, contains support for his argument that the assessor is obliged to calculate an assessment which is based on market value and which is not higher than the assessments of similar properties. His appendix also contains the decision of the Composite Assessment Review Board which reduced the 2010 assessment of the subject property.

Respondent's position

Issue #1 The respondent firstly provided color photographs of the subject property including interior photos depicting quality of finish. The respondent further presented the Colliers leasing brochure for the subject. This document was evidence that the subject property contained a rooftop patio, a Bistro kitchen with seating capacity for 75 and an equipped gym or fitness facility, all for the exclusive use of the tenants. He further pointed out that the on-site parking was a further additional feature not common with typical "B" class buildings. The respondent testified that because of these features and because the complainant's comparables were of a lesser quality and thus not instructive, he had appropriately classified the subject property as an "A" class building. He said that he had applied a rental rate of \$19 per sq. foot, similar to that of other "A" class buildings and that this rate reflected the decision of the Composite Assessment Review Board in 2010 because the rate, used for assessment, for "A" class buildings in 2010 had been \$26 per sq. foot. He further supported the use of this rate by presenting a chart of Beltline office "A" class properties on page 49 of his document R1. This chart revealed, from leases signed in 2009 and 2010, that a median rate of \$19.88 and a weighted mean of \$21.46 was appropriate for this class of property. For final documentation he provided information with respect to rental rates and capitalization rates from noted real estate industry brokerage and consulting firms. This information suggested that average annual asking rental rates in the Calgary Beltline neighbourhood in the second quarter of 2010 ranged from \$20-\$23.

Issue #2 The real estate industry published information for capitalization rates for Calgary for "A" class buildings ranged from a low of 6.25% to a high of 7.75%. Given that the City had

selected the higher end of the range, for the Beltline area, and that the complainant had not presented a plausible capitalization rate study, the respondent argued that his choice of 7.75% was both supported and correct.

The respondent pointed out that it is not enough for decisions on property equity to be based upon location alone. In this regard he pointed out that some of the reductions that were granted in the 2010 assessment year by the Composite Assessment Review Board were possibly inappropriate. He referred to one such set of decisions on the assessments for the property at 318-11 Avenue SE which had been reduced last year and confirmed this year.

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

Issue #1 Upon viewing photographs of the subject, both interior and exterior, together with the testimony of the assessor regarding building amenities, and in comparing this information with that of the complainant's comparables, the Board is of the opinion that the subject property is a higher quality building and would thus demand a higher rent than would be commanded by "B" class buildings. The panel noted that the subject property was not designated as a "Heritage" property as of the condition date for the 2011 assessment, and that even if it had been there was no evidence before the Board that such designated buildings were more or less valuable. With respect to lease rate information the Board noted that the best lease comparable put forward by the complainant was for a term of 10 years with no explanation of how this term might have affected the rate. Further, the Board noted that a negotiated lease renewal for the subject property, albeit for a one year term, was at the rate of \$23.74. It was for these reasons that the Board was unable to find support for the complainant's assertion that the subject property should be classified as a "B" class building and therefore only capable of achieving a \$14-\$17 rental rate.

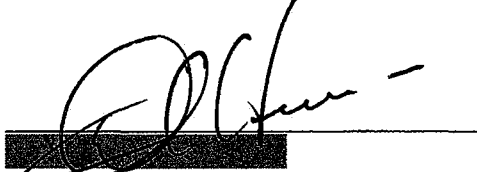
Issue #2 The Board found that the only evidence regarding market capitalization rates for office buildings was that of the respondent located on page 66 and 68 of his document R1. This information provided support for the assessor's use of a 7.75% capitalization rate.

Generally speaking the Board preferred the evidence of the respondent in this case and agrees that the question of an inequitable assessment must first clearly delineate comparability, with respect to both form and function, between the subject and the comparables. Then secondly, it must be clearly demonstrated that there is not an overlap of market (assessed) value range, determined for the subject and the range of equity values determined for the comparables.

Board's Decision:

The 2011 assessment of \$9,780,000 is confirmed.

DATED AT THE CITY OF CALGARY THIS 4 DAY OF October, 2011.



Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

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.*

Decision No. 1871-2011-P		Roll No. 068118702		
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	office	Building class	Income Approach	Net Market Rent

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CARB	office	Rental rate		Cap Rate