

**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-26.1, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

John Mathias, MEMBER

Robert Kodak, MEMBER

This is a complaint to the Calgary Assessment Review Board 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: 757120902

LOCATION ADDRESS: 23 Sunpark Drive S.E Calgary

HEARING NUMBER: 59087

ASSESSMENT: \$49,310,000

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

Appeared on behalf of the Complainant: D. Chabot

- **Altus Group Ltd. - Complainant**

Appeared on behalf of the Respondent: A Jerome and T Woo

- **The City of Calgary - Respondent**

Property Description and Background

The subject property built in 2003 is a 180,004 square foot class A suburban office building located at 23 Sunpark Drive S.E. Calgary. The assessment for the subject building shows that the Respondent in applying the capitalized income approach has used operating costs at \$12.50 per sq. ft. and allowed for vacancy at 6%. These matters are the matters in dispute. The parties advised the CARB that their evidence and arguments respecting the issues noted below would be the same for a number of other complaints being brought forward in this set of hearings. Therefore the CARB decision and reasons will be the same where the evidence and arguments were carried forward by the parties.

Issues:

1. Is the vacancy allowance of 6% typical of vacancy in the south east sector of the City for this property type?
2. Is there justification to increase the typical operating costs to reflect the correct market value for subject suburban office?

Other issues were raised in the Complainant's complaint filed with the Assessment Review Board (ARB) on March 4, 2010. The only issues that the parties brought forward in the hearing on June 8, 2010 before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised by the Complainant on schedule 1.

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

Issue 1 - The typical vacancy rate to be applied to the subject property is 9.5%.

Issue 2 – The typical operating cost of \$12.50 per sq. ft. should be applied to the subject.

Reasons for the Decision:**Vacancy Allowance**

The Complainant argued that the 6% vacancy allowance used by the Respondent is not reflective of the level of vacancy being experienced by properties similar to the subject in south Calgary as of the valuation date July 1, 2009. The Complainant proposed that this allowance should be 10% and introduced a number of third party reports in support of this recommendation. These reports were published by Avison Young, CB Richard Ellis and Colliers International and showed vacancy rates for suburban office space in the S.W and the S.E range from a low of 7.9% in Q2 to a high of 20.3% in Q3 of 2009. The majority of data reported showed vacancy rates in excess of 10% for mid year 2009. The Complainant's also provided 2008 third party reported vacancy rates to show that in 2008 the Respondent's assessed 3% closely matched these reports that year wherein the current year there is a significant spread. The Complainants had also completed their own study of suburban office vacancy in south Calgary which included 27 comparables showing a median vacancy rate of 9.66% as of July 1, 2009. The Respondent had pointed out that the Complainant's data included a building showing vacancy at 100%, however this building was still under construction as of July 1, 2009. When this occurrence is removed the median of the Complainant's comparables is 9.10% and the mean is 13.52%..

The Respondents argued that the method and calculations applied by the Complainant to determine typical vacancy is not appropriate and that the correct method is to determine the vacancy level expressed as a percentage for each comparable building and then determine the median vacancy value for the array of comparables. In so doing the method reduces the impact of highs and lows thereby giving a truer picture of the typical vacancy experienced within the sample. The Respondent submitted a vacancy study prepared by the City of Calgary which included 92 suburban office buildings in south Calgary. The available rentable space in these buildings totalled to 3,953,735 sq. ft. and the vacant space in these buildings was reported to be 243,359 sq. ft.. The median vacancy rate for the buildings in this study was 0% and the mean value was reported as 5.98%. The Respondents indicated that the median of 0% is the best indicator of value; however other information led the Assessor to apply a 6% vacancy rate for south Calgary suburban offices this year. The Complainant introduced several examples of buildings included in the Respondent's study that appeared not to be suburban office but perhaps retail or industrial in nature. The Complaint also argued that the Respondent did not provide the actual vacancy data for any of their comparables and therefore there was no way for the Complainant or the CARB to test this information. The Respondent indicated that this information is treated as confidential, however the Complainant argued that vacancy information should not be viewed as confidential as all owners advertise their vacant space and share this information openly. The Respondent argued that the market reports are not reliable and that the Respondent's review of the Complainant's initial study, along with the

addition of eight other buildings in the southeast, provides a median value of 6.26% supporting the vacancy rate of 6%.

The CARB reviewed the methodology applied by the parties in their respective vacancy studies and favours the Complainant's approach. The Respondent's method in this case produced a median of 0% and yet the Respondent did not rely on that value but rather adopted a vacancy allowance of 6%. The Respondent's methodology may have produced a meaningful value if the data in the array represented annualized vacancy for each property rather than a snapshot value at a particular point in time. The approach applied by the Complainants is a similar approach to that used by the third party reporting agencies and provides a good picture of overall vacancy levels for the group of properties in the sample at a particular point in time, in this case July 1, 2009. The Respondent's information also was found not to be sufficiently transparent to determine why there is such a wide variance between the results of their study and that of the third party reports and that of the Complainant. While the median value including the additional Respondent's occurrences is 9.10% the mean is 13.52%. The CARB is convinced that the correct rate is slightly above the median of 9.10% and sets the rate for the subject at 9.5%. This vacancy value is solidly supported by the third party reports provided by the Complainant.

Operating Costs

The Complainant argued that the actual operating cost for the subject exceed the typical value of \$12.50 per sq. ft. used by the Respondent in arriving at the assessment and requested that the CARB adjust the operating cost factor to \$14.00 per sq. ft. In support of their proposed adjustment the Complainant submitted a 2010 operating expense budget for the subject showing actual operating costs for 2009 ranged as high as \$15.67 per sq. ft. and the 2010 budget projects costs as high as \$14.09 per sq. ft. This was the basis for the requested \$14.00 per sq. ft.

The Respondent argued that it is inappropriate to mix the application of actual performance values with typical values, however in any case the Complainant has not justified the need to adopt a value beyond the typical of \$12.50 per sq ft.

The CARB notes that the Complainant did not support their requested adjustment with the actual lease which may or may not show atypical items to be included in operating costs. There was no explanation as to what features within the subject would lead to abnormal operating costs nor did the CARB have any breakdown as to what cost items are "expensed to" or "budgeted for" respecting the evidence introduced by the Complainant. There was simply insufficient evidence to support any change from the typical value of \$12.50 per sq. ft. used by the Respondent in deriving the assessment and therefore this value will continue to be applied.

Decision

Based on a careful review of all the evidence and argument advanced in this case and in light of the findings and reasons above the CARB reduces the assessment of the subject property to \$46,530,000.

DATED AT THE CITY OF CALGARY THIS 21st DAY OF JUNE 2010.



Paul G. Petry
Presiding Officer

xxx/xx

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.*