

**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:

J. Noonan, *PRESIDING OFFICER*

A. Wong, *MEMBER*

C. McEwen, *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:	101008001
LOCATION ADDRESS:	5920 Macleod Trail SW
HEARING NUMBER:	58934
ASSESSMENT:	\$35,730,000.

This complaint was heard on the 16th day of August, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- G. Worsley, D. Chabot, D. Genereux, Tax Agents, Altus Group

Appeared on behalf of the Respondent:

- B. Duban, R Fegan, Assessors, *The City of Calgary*

Property Description:

The subject is located at 5920 Macleod Trail SW, Calgary. It is a 186,000 sq.ft. two tower office development, one tower built in 1971, the other in 1974. There is a small amount of retail space on the main floor of one tower. The 2010 assessment has been prepared using the income approach and the typical parameters for SW office properties. After deductions for several tax exempt accounts related to the subject the assessed value is \$35,730,000.

Issues:

The complaint form presented a lengthy list of grounds for complaint, but the evidence and argument presented to the Composite Assessment Review Board (CARB) distilled to one encompassing issue:

Is a fair and equitable assessment achieved by the application of the City's typical income approach parameters for:

1. Lease rate
2. Vacancy shortfall allowance
3. Parking vacancy or lack thereof
4. Cap rate
5. Vacancy

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

1. Lease rate

The CARB found two slightly *post facto* leases for the ground floor retail areas totalling 4898 sq.ft. and concluded that \$16 was a reasonable lease rate for this space. It had been assessed at \$18 and the Complainant had requested \$15. For the much larger office space component, again the Complainant requested a \$15 rate, pointing to some leasing activity at \$14 and lower around valuation date and into 2010, indicative of a lower trend. The Respondent pointed out that the weighted average rent rate achieved in the subject was in excess of \$23 in 2008 and \$18.98 in 2009 which figures supported the use of the \$18 typical. The Board concurs, and notes especially the Jan 2009 lease at the subject of some 12,000 sq.ft. at \$21.

2. Vacancy shortfall allowance.

There was unclear evidence from the subject property as to whether there was any support for the originally requested increase from \$12.50 to \$14. The Complainant dropped this request during the course of the presentation.

3. Parking vacancy

This was another less significant issue regarding which the Complainant noted the high vacancy of the office portion extended as well to the underground parking spaces. The City noted it is not their practice to depart from the method of assessing all suburban underground parking at the same rate with no special provisions for extra vacancy. It was further noted that those stalls which were rented produced monthly rent greater than the assessed rate. The Board declined the idea of making a special extra parking vacancy allowance in the absence of evidence showing this was done in similar circumstances.

4. Cap rate

The CARB decided that insufficient actionable evidence had been presented to justify a change to the 8% cap rate applied to this and other B class suburban offices. The parties acknowledged a lack of sales of this type of property in the year preceding valuation. The Respondent had 5 sales of A class properties to support the use of 7.5% cap rate for A class suburban offices, and had estimated an additional ½ point for B offices. The Complainant analyzed 2 *post facto* October and December 2009 sales employing City typicals and found in both cases a cap rate of 9.2%. The Board notes these were both significantly smaller sales in the \$5 million range, and though one was in very close proximity to the subject, it was a one storey property and removed from Macleod Trail. The CARB considered the third party market reports which concluded an 8.5%-9% cap rate range in the Q2-Q3 period of 2009, but was concerned that this conclusion was drawn from no better evidence than was available to the parties here.

5. Vacancy

The Respondent applied the typical SW vacancy rate of 6%, and the Complainant requests 20% in recognition of the site-specific vacancy at the subject due to the loss of the major tenant around valuation date, July 1, 2009. The Board heard that vacancy at the subject was 16% at time of receipt of the ARFI, approximately April 2009, 71% vacant at July 1, 2009, and with some leasing activity in the balance of the year, 59% vacant at year end.

The Complainant noted a number of discrepancies and omissions in the City's vacancy study of SW suburban offices and advised that other panels had heard this evidence and decisions were pending. Similarly, analysis of the SE vacancy study had called into question the accuracy of that study, and a number of Board decisions had revised the typical vacancy rate in the SE sector to 9.5%. It was submitted that the subject's vacancy allowance should be no less than the 9.5% rate found in the SE as the subject is in close proximity to competing properties in that sector.

The CARB finds the loss of a major tenant sufficient reason to distinguish a property at least temporarily atypical. The Board is aware that the assessment branch policy is to wait some 3 years for evidence of chronic vacancy before departing from the application of the typical allowance. Here, the Board finds the market value of the subject would be diminished from what

would typically prevail, having heard that new inventory has been introduced to the market and vacancy increasing from levels that recently prevailed. On the other hand, the Board recognizes the superior location of the subject in close proximity to the Chinook Centre and mass transit. In consideration of these factors, the Board concludes that a vacancy allowance of 10% is justified. The fullness of time might dictate that this allowance become more generous should elevated vacancy persist, or alternately, revert to typical.

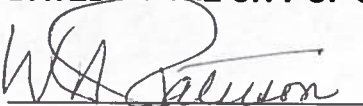
The traditional method of acknowledging investment risk, such as abnormal vacancy, is the application of a higher cap rate. However, a higher vacancy allowance accomplishes the same result.

The CARB recalculated the income approach valuation using the reduced retail rate and the 10% vacancy allowance. The result was \$36,883,475 from which was deducted a revised value of \$4,065,500 for the exempt accounts, yielding a taxable portion of \$32,818,975.

Board Decisions on the Issues:

The Board reduces the assessment to \$32,820,000.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF September 2010.


J. Noonan
Presiding Officer

JN/sd

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.*