

**CALGARY
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:

D. H. Marchand, PRESIDING OFFICER

S. Rourke, MEMBER

P. Pask, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board (CARB) in respect of the Property Assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	068075506
LOCATION ADDRESS:	101 – 6th AV SW
LEGAL DESCRIPTION:	Plan A, Block 43, Lots 16-20
HEARING NUMBER:	58455 (Hanover Place)
ASSESSMENT:	\$75,640,000

This complaint was heard August 25-26, 2010 at the office of the Assessment Review Board located at 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 11.

Appeared on behalf of the Complainant; *Altus Group Ltd.*: D. Genereux
G. Worsley

Appeared on behalf of the Respondent; *City of Calgary*: D. Lidgren
A. Czechowskyj
E. Borisenko - observing

Description and Background of the Property under Complaint:

The subject is identified with a sub-property use code CS1025-Office/Retail. The subject's land use designation is Downtown Business District. The land area consists of 16,264 square feet. There are 247,566 square feet of rentable area. The property is known as the Hanover Place in City's downtown commercial core and has been assessed within the "B+" group of office properties within the Downtown District.

Prior to the opening of the hearing the Complainant advised that the 14 points filed as Grounds for Appeal within the subject's Assessment Review Board Complaint form under *Section 5 – Reason(s) for Complaint* are now covered by the objectives set out in their evidence submission.

Based on these objectives **two requested assessment amounts** were offered for the CARB's consideration:

1st request: An Assessment at market based on Altus Groups' "B" Class office buildings which would.	2nd request: An Assessment that is Equitable with similar type "B" Class office buildings.
Reduce the office rental rate from \$28.00 to \$18.50 psf	Reduce the office rental rate from \$28.00 to \$26.00 psf.
Reduce the retail rental rate from \$32.00 to \$13.00 psf	Reduce retail rental rate from \$32.00 to \$26.00 psf.
Reduce the retail rental rate for retail upper from \$32.00 to \$10.00 psf (a fitness centre rate)	Reduce the retail rental rate for retail upper from \$32.00 to \$10.00 psf. (a fitness centre rate)
Increase the vacancy allowance to 17.0% (only to the office component the retail is at 8.0%)`	The vacancy allowance of 8.0% remains the same
Increase the capitalization rate to 8.5%	The capitalization rate of 8.0% remains the same
<p>The request is based on revising the rental rates for the various uses and locations, an increased vacancy allowance, an increased capitalization rate. The assessment requested is \$36,611,000 for the taxable component.*</p> <p>*The subject has an exempt component under a separate roll number that is not under complaint.</p>	<p>The request is based on "B" class rather than "B+" modelled parameters used by the Municipality. The assessment requested is \$69,157,800 for the taxable component.*</p>

A minor dispute as to the actual rentable office area and the upper and lower rentable retail areas remains. The complainant computes the office space at 237,868 sf; the respondent's computes

239,738 sf; a difference of 1,870 sf. The complainant shows a lower retail space at 6,455 sf; the respondent's 5,782 sf. The complainant shows the upper retail space at 2,627sf; the respondent's 2,046 sf.

Note: The exhibits submitted and marked as C-2, C-3, C-4, C-5, R-2 and R-3 for this hearing are common to two other files under complaint and heard by the same panel members. They are file 59994 (The Britannia) and file 57924 (Norcen Tower).

POSITION OF THE COMPLAINANT

1) Subject's Office Rental Rate:

The Complainant is requesting an office rate of \$18.50 based on their analysis of "B" class rentals. Some 41 lease rates from 12 offices complexes were given consideration. The 12 complexes identified by their building name included: 520 – 5th, Atrium I and II, Eau Claire Place II, Lancaster Building, Five Ten Fifth, Ford Tower, Fourth & Fourth, IBM Building, Hanover Place, One Palliser, Canada Place, and Trimac. The rates range from \$12.00 to \$38.00 per sq. ft. and the median rate being \$18.20.

Alternatively the Complainant is requesting an office rate equitable to other "B" assessed properties at \$26.00 per sq. ft.

2) Subject's Retail Rental Rate:

The Complainant is requesting a retail rental rate of \$13.00.

Alternatively the Complainant is requesting a retail rental rate of \$26.00 equivalent to the office rate other "B" assessed properties; the argument being one of equity.

3) Subject's Retail Upper Fitness Centre Rate:

The Complainant is requesting a retail rental rate of \$10.00 equivalent to the fitness retail rate used in other "B" assessed properties; again the argument being one of equity.

4) Subject's Vacancy Allowance Rate:

The Complainant is requesting a vacancy allowance of 17% for the office components only based on their analysis of 17 complexes identified as B class offices. They are identified by their building name: EUB building, Canadian Centre, Five Ten Fifth, Daon Building, Hanover Place, Plaza 1000, Place 800, Roslyn Building, Ford Tower, Aquitaine Tower, Pacific Plaza, BDC Building, Palliser One, Standard Life, Canada Trust, Eau Clair Place II, and Life Plaza. Two averages were computed; one with the EUB Building with a 0% vacancy (16.15%), the other with the EUB Building being 100% vacant (22.03%). The Complainant credits the increase in vacancy to an added amount of office space to the downtown core in late 2009.

Alternatively the Complainant is requesting a vacancy allowance of 8% rate equitable to other "B" assessed properties.

5) Subject's Capitalization Rate:

The Complainant is requesting retail Capitalization Rate of 8.5% to reflect the subject's inferior location relative to the other "B" office complexes in the Downtown Core; as well as the higher economic risk caused by knowing a significant amount of new uncommitted office buildings are about to be placed on the market in the next two to three years.

Alternatively the Complainant is requesting an 8.0% Capitalization Rate equitable to other "B" assessed properties. In rebuttal the Complainant provided their claim for the valid use of court ordered sale of the property referred to as "8 West" in the analysis.

POSITION OF THE RESPONDENT

1. Subject's Office Rental Rate:

The Respondent referred the CARB to seven current leases within the subject property from late 2008 to mid 2009 in the range of \$21.50 to \$35.46 per sq. ft.; the median being \$30.00 per sq. ft. Also provided to show equity in the assessment were 15 offices space rents all assigned a rate of \$28.00. The Respondent drew the CARB's attention to ARB 0317/2010-B wherein the rental rate of \$28.00 was confirmed on some 21,197 square feet of office space for business assessment purposes.

2. Subject's Retail Rental Rate:

The Respondent argues that no evidence was provided for the Complainant's request of a \$13.00 retail rental rate and there is no support for a \$26.00 rate as well. The Respondent submits that the typical rate of \$32.00 is reasonable.

3. Subject's Retail Upper Fitness Centre Rate:

The Respondent argues that no evidence was provided to indicate that the retail upper described is fitness retail space. The Respondent submits that the typical rate of \$32.00 is reasonable.

4. Subject's Vacancy Allowance Rate:

The Respondent provided a summary of 52 office complexes within the downtown all rated "B" class. The overall vacancy concluded is 4.97%. Also provided were the third party reporting's on vacancy rates, each in support of the municipality's applied 8% allowance.

5. Subject's Capitalization Rate:

The Respondent provided its previous year's rate calculations based on five "B" class office and two "A" class sales. The conclusions reached were modified upwards to reflect the local economic changes between 2008 and 2009 years. The assessment capitalization rate was increased from 7.25% - 7.5% to 8.0%. Also provided was ARB 1131/2010-P wherein the same issue was addressed relative to the sale of "8 West".

Findings:

- The CARB finds a \$28.00 per square foot office rental rate to be a reasonable typical market rate for the subject's office space.
- The CARB finds a \$32.00 per square foot retail rental rate to be a reasonable typical market rate for the subject's retail space. No evidence was provided in support of the requested retail rate of \$13.00 per square foot. As well no evidence was provided as to the existence of "fitness space" within the upper level.
- The CARB finds the vacancy allowance of 8% is a reasonable adjustment to be applied within the subject's assessment models calculations.
- The CARB finds the capitalization rate of 8% a reasonable rate to capitalize office complexes income of this class in the subject's downtown district.

Decision:

The CARB denies the complaint and confirms the assessment in the sum of **\$75,640,000**

Reasons:

The CARB is concerned. The assessment is being asked to be reduced by 52.6% and in the alternative an assessment reduced by 8.57% would be acceptable. Any property assessment or property appraisal resulting in such a range of conclusions warrants concern.

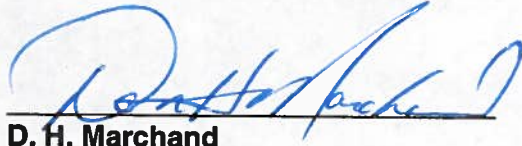
The CARB looked to the evidence of office rental rates provided by both parties, as each are using comparables leases from what they are considering to be similar complexes. Evidence of seven leases with rates on each side of the typical \$28.00 was provided. Only two of the seven were identified by the Complainant. They were \$21.50 and \$23.00. The requested rate of \$18.50 for the subject was not supported.

The CARB, without evidence as to retail rental rates of \$13.00 and without the existence of a fitness centre gives weight to the Respondent's rates and areas to which the assessed rates were applied.

The CARB again looked to the evidence of vacancy rates provided by both parties, as each are using what they are considering to be similar complexes in their analysis. Both parties submit evidence that the subject was experiencing approximately an 8.0% vacancy at the time of the assessment; from the Complainant 8.55%, from the Respondent 8.8%.

In ARB 1131/2010-P the CARB previously concluded that 8.0% is a reasonable capitalization rate for a property similar to the subject. The CARB hearing and deciding this complaint was not persuaded to distinguish a different conclusion.

DATED AT THE CITY OF CALGARY THIS 28 DAY OF September 2010.



D. H. Marchand
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

C-1	<i>Evidence Submission of the Complainant</i>
C-2	<i>Submission of the Complainant Regarding Class "B" and Class "C" Buildings</i>
C-3	<i>Addendum #1 to C-2</i>
C-4	<i>Addendum #2 to C-2</i>
C-5	<i>Complainant's Rebuttal</i>
R-1	<i>Assessment Brief of the Respondent</i>
R-2	<i>Additional Assessment Brief of the Respondent</i>
R-3	<i>Copy of ARB 1131/2010-P from the Respondent</i>

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.*