

**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, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, Presiding Officer

K. Kelly, Board Member

J. Massey, Board Member

This is a complaint to the Calgary Assessment Review Board 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: 068077395

LOCATION ADDRESS: 616 – 3 Street SW, Calgary AB

HEARING NUMBER: 59562

ASSESSMENT: \$206,520,000

This complaint was heard by a Composite Assessment Review Board (CARB) on the 27th day of September, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 7.

Appeared on behalf of the Complainant:

- D. Genereux & G. Worsley

Appeared on behalf of the Respondent:

- W. Krysiniski & A. Czechowskyj

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

This was one of 17 hearings regarding Class A and AA office buildings in the Calgary downtown that were scheduled to be heard during the week of September 27 to October 1, 2010. At the outset, the Complainant requested a postponement because notice for these hearings had been relatively short and a number of personnel from the Complainant company (Altus Group) were unavailable to attend and provide evidence. No alternative dates were suggested for a continuation.

The Respondent objected to the CARB granting any postponement, arguing that both parties had agreed to these current hearing dates and that there had been sufficient notice. Further, there had already been hearings and decisions rendered on "global issues" which pertained to all of the Class A-AA office building complaints so these hearings were to address "site specific" matters for those properties where there were site specific issues. There was no exceptional circumstance for granting a postponement. The Complainant was aware of these hearing dates, having agreed to them, and the individuals who had prepared the evidence materials should have been present and prepared to proceed.

Decision of the CARB on the Postponement Request:

The CARB denies the request for postponement of the hearings. These hearings had been scheduled, with the agreement of both parties, for the week commencing September 27th, so both parties should have been prepared. Having regard to the Complainant's argument that the individuals who were familiar with specific properties and who had prepared the evidence materials for those properties were unable to attend the hearings, the CARB is accustomed to receiving evidence and hearing argument from someone other than the individual who inspected the subject property and prepared the documents.

The CARB was concerned that a postponement of these hearings until late November, which appeared to be the only alternative hearing dates, would not be practical given the number of outstanding complaints and the December 31st deadline for issuance of written decisions.

The CARB informed the parties that it would make every effort to arrange the order of the hearings to accommodate the parties in having the appropriate individuals present.

Section 15(1) of the *Matters Relating to Assessment Complaints Regulation* prohibits an assessment review board from granting a postponement or adjournment except in exceptional circumstances. The reasons given by the Complainant in this postponement request were not considered to be exceptional circumstances.

Property Description:

The property that is the subject of this complaint is a 41 storey Class A highrise office building located in the DT1 downtown submarket area. The building, known as First Canadian Centre has a rentable area of 515,693 square feet comprising office, retail and storage space (according to the assessment record – see below for corrections). Retail space is on the ground floor (47,408 square feet) and on the +15 level (1,481 square feet). There is underground parking for 192 vehicles. The building was constructed in 1982. The property is situated on the northeast corner of the intersection of 3rd Street (Barclay Promenade) and 7th Avenue SW. There are four +15 connections to adjoining and nearby buildings.

Issues:

The Complainant raised the following matters in section 4 of the complaint form:
Assessment amount (No. 3 on the form) and Assessment class (No. 4 on the form).

The Complainant also raised 17 specific issues in section 5 of the Complaint form however, most of these related to global or common issues that had been issues for all Class A and AA office property complaints from this Complainant.

At this hearing, the Complainant carried forward all of the arguments regarding global issues. There was one other issue that was specific to this property – the allocation of floor area/total floor area.

Complainant's Requested Value:

\$137,420,000 (Based on global and site specific issues)

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

Various Calgary CARB panels have heard the global or common issues evidence and argument at prior hearings regarding complaints against Class A-AA office building assessments and decisions have been rendered in regard to those complaints.

Global issues:

1. Office Rental Rate
2. Vacancy allowance
3. Capitalization rate

The most recent decision of the Calgary Assessment Review Board regarding Class A-AA properties, CARB 1657/2010-P, issued on 27 September 2010, dealt with each of these three global issues. The findings and reasoning will not be repeated but are carried forward to this decision.

The findings on these three issues remain the same as in that prior decision.

The reasoning for the decisions based on the findings remains the same.

For details of the findings and reasons for this portion of this decision, CARB 1657/2010-P should

be read.

Another issue that was common to some but not all A-AA buildings was the treatment of conference facilities/meeting space. Some buildings contained a conference centre or meeting rooms that were available to all tenants in the building, often at no cost. The Complainant requested that these spaces be assessed at little or no value. For the subject building, requested assessments included a 10,108 square foot conference centre at a rental rate of \$10 per square foot (the same rate as was applied to storage space). At the hearing, this issue was not pursued since it had been rejected in prior CARB decisions.

The Complainant had requested an area re-allocation due to variances between the assessment record and rent roll data.

The Respondent had reviewed the area allocation and found errors. A recalculation indicated that the assessment should be \$202,332,000 but the Respondent would not recommend that the 2010 assessment be reduced. The Complainant reviewed the Respondent's calculations and suggested that area deemed to be basement office space should be taken from the total retail area and not the total office area. The Respondent again recalculated the assessment and found that the area changes reduced the assessment to \$198,500,000 but would not recommend that the CARB make the reduction.

After re-allocating building space, the following formed the basis of the latest recalculation:

Office:	459,592 square feet	
Retail Lower:	23,774 square feet	
Retail Upper:	1,481 square feet	
Office Poor:	17,430 square feet	(Basement office space)
Storage:	6,206 square feet	

The CARB finds that the re-allocation of floor space is a data correction and it should be made in order to have the correct facts on the assessment record.

Board's Decision:

The 2010 assessment is reduced to \$198,500,000.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 22 DAY OF OCTOBER 2010.



W. Kipp
Presiding Officer

SUMMARY OF EXHIBITS

Exhibit

- C1 Assessment Review Board Complaint Form
 - C2 Evidence Submission of the Complainant
 - R1 Respondent's Income Approach Manual Calculation
 - R2 2010 Business Assessment Notice – Roll 0680773954418
 - R3 2010 Business Assessment Notice – Roll 0680773950004
 - R4 Respondent's Assessment Brief
- Plus previously filed documents regarding global or common issues.

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.*