

**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, Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Steven C. Kashuba, PRESIDING OFFICER

P. Grace, MEMBER

J. Massey, 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: 048040406

LOCATION ADDRESS: 2115 – 30 Avenue NE

HEARING NUMBER: 57357

ASSESSMENT: \$4,320,000

This complaint was heard on 26th day of October, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *G. Kerslake*

Appeared on behalf of the Respondent:

- *R. Powell*

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

At the outset of the hearing the Complainant requested that a preliminary matter be dealt with. The basis of the preliminary matter had to do with the net rentable space applied in the previous year's assessment in contrast to the increased net rentable space applied during the current year. The Complainant also pointed out that two leases were exempt from taxation and that the lease rate applied to the mezzanine area should be less than the rent rate applied to the main floor space.

However, after a further discussion and review of the Complainant's request, both parties agreed that the mezzanine area constituted *finished space* and that the matters of net rentable space and areas exempt from taxation could be addressed within the merits of the complaint. As a result, the Board agreed to move directly to the merits of the complaint.

Property Description:

The subject property, located at 2115 -30 Avenue NE, consists of two buildings which were constructed in 1979 and 1999 in the South Airways Industrial Subdivision of the City. In 2009, the City, in their Assessment Explanation Supplement (C-1, page 13) listed the Rentable Building Area as being 37,502 square feet. However, in their Assessment Explanation Supplement for 2010, the City listed the Rentable Building Area as being 41,662 square feet. Two of the tenants are tax exempt. The current assessment of the property is based upon a total rentable area of 41,662 square feet and the current assessment is set at \$4,320,000.

Issues:

1. Equity comparables indicate that the subject property is over-assessed, and
2. The net rentable area applied by the Respondent is not correct.

Complainant's Requested Value: \$3,600,000.

Complainant's Position as Regards Issue #1, Equity:

In support of their request for a reduction in the assessment amount, the Complainant presented four equity comparables (C-1, page 15) which are taken from the same sector of the City and which reflect rentable areas which range from 30,240 square feet to 46,799 square feet. Since it is the submission of the Complainant that the correct net rentable area of the subject property is 37,502 (C-1, page 15, the assessment area as reflected in the 2009

assessment) square feet, these equity comparables are valid. The median assessment value of these comparables is \$96 per square foot and, when applied to the net rentable area of the subject property, one arrives at a value of \$3,600,000.

Further to this, the Complainant submitted that the Respondent applied a value of \$109 to an increased, and incorrect, rentable space of 41,662 feet (as opposed to the 37,502 square feet for 2009) to arrive at an assessment value of \$4,573,068. From this amount the Respondent deducted a tax exempt value of \$244,500 (C-1, page 15), which amounts to 5.35% of the total amount of \$4,573,068, to arrive at the current assessment of \$4,300,000.

However, the Complainant disputes this assessment amount by arguing that the net rentable area advanced by the Respondent is incorrect and should be listed as it was the previous year at 37,502 square feet. By applying the median value derived from equity comparables of \$96 to this net rentable area and deducting from it the ratio of 5.35%, which constitutes the exempt portion, a value of \$3,407,707 is derived. It is upon this basis that the Complainant requests a reduction in the assessment amount.

In further support of their request for a reduction in the assessment amount, the Complainant submitted two recent CARB decisions (C-1, pages 23 – 36). In particular, the Complainant drew the Board's attention to ARB 0758/2010-P, page 29 which states that, *"Having regard to the multiple building/individual building assessment argument, the Board finds for the Complainant. The subject property is a single property, legally registered on a single title. It just happens to have four separate buildings on that one land parcel. In all likelihood, the parcel could not be legally subdivided so that each building would have its own land parcel. In the marketplace, the property would compete with other properties with around the same total floor area regardless of the number of buildings. Rents achievable for space in the buildings would relate to bay sizes, not to total building sizes."*

Respondent's Position as Regards Issue #1, Equity:

To support the assessment of the subject property, the Respondent presented seven equity comparables (R-1, page 26) which reflect rentable areas ranging from 30,712 square feet to 41,540 square feet, while the larger of the two subject buildings has a rentable area for 2010 at 36,997 square feet. In addition, the Respondent presented three equity comparables for the smaller of the two subject buildings (R-1, page 27), which range in rentable area from 5,000 square feet to 6,013 square feet.

The Respondent confirmed that the methodology used to arrive at a market value for the subject property was to first arrive at a market value specifically for each of the two buildings. Having regard for this procedure, the Respondent submitted that the rate attached to the main building, which has a current net rentable area of 36,997 square feet, is \$97 while the smaller building, measuring 4,665 square feet of rentable space, is assessed at \$212 per square foot. The table, dealing with the variables in the equity comparables, also reflects the site size, site coverage, year of construction, building type, and the assessment rate per square foot.

Findings and Board's Decision as Regards Issue #1, Equity:

First of all, the Board accepts the Complainant's argument that the two buildings on the subject property should be treated as one unit, as opposed to the Respondent's treatment of valuing each building on its own merits. As a result, the Board finds in favour of the

Complainant and accepts that the characteristics of the equity comparables presented by the Complainant are consistent with the characteristics of the subject property. As a result, the Board accepts the Complainant's contention that an application of \$96 per square foot to the subject property is supported by the equity comparables.

Since the Board accepts the Complainant's submission that the two buildings on the subject property should be treated as one unit, the Board, in turn, places little weight upon the equity comparables presented by the Respondent in that the assessment of Building #1, with a rentable area of 36,997 square feet, is compared to similar properties, while Building #2, with an area of only 4,665 square feet, is also compared to similar properties. This methodology of assessment and equity comparability, in light of the two buildings being listed on one Roll Number, in the view of the Board, is faulty. The element of comparability is especially brought into question when the area of the larger building is six times the size of the smaller building and where the rate per square foot for the larger building is \$97, while it is \$212 for the smaller building. As a result, it is difficult to envision the use of a meaningful mathematical formula which would have as its basis the concept of a median or average value.

In addition, the Board notes that in the Respondent's second grouping of equity comparables (R-1, page 27), the parcel size for the subject is 1.76 acres while two of the three comparables are considerably larger at 5.24 and 4.55 acres respectively. As a result of the significant variance in lot sizes of the comparable properties, the element of comparability, in the view of the Board, is considerably diminished.

A similar reservation is applied by the Board to the first grouping of equity comparables for Building #1 (R-1, page 26), in that insufficient information is provided as regards Building Number as to whether any of the equity comparables are composed of one or more buildings.

Complainant's Position as Regards Issue #2, Rentable Area:

In support of their submission that the net rentable area currently used by the Respondent is incorrect, the Complainant presented a footprint of the two buildings (C-1, page 12). Although not drawn to scale, a summary, dated August 4, 2005, is provided which shows that the area of Building #2 is 4,592 square feet while the area of the main #1 Building is composed of 31,654 square feet on the main floor and 5,847.75 square feet of office space on the mezzanine.

However, the Board notes that these measurements are in contradiction with the Respondent's Assessment Explanation Supplement (R-1, page 16) wherein the rentable space in Building #2 is 4,665 square feet as opposed to the architectural rendering, as noted above, of 4,592 square feet. In addition, the rentable area of Building #1 in the Respondent's Assessment Explanation Supplement is listed as being 36,997 square feet as opposed to the Complainant's submission in their architectural rendering of 37,501.75 square feet.

Respondent's Position as Regards Issue #2, Rentable Area:

The Respondent submitted to the Board that the rentable area of the subject property is correctly presented in their Assessment Explanation Supplement (R-1, page 16). In particular, the Respondent pointed out that the footprint of Building #1 is 27,583 square feet to which was added the mezzanine office area to arrive at a rentable area of 36,997 square feet. Although the Respondent did concede that the 2009 Assessment Explanation Supplement did list the net

rentable space for Building #1 as being 32,910 square feet, they added that this measurement was subsequently corrected as a result of a re-measurement.

Findings and Board's Decision as Regards Issue #2, Rentable Area:

Although the Complainant argued that the measurement of Building #1, as advanced by the Respondent is incorrect, there appears to be a lack of corroborative evidence which would resolve this difference. Further to this, the Board notes that the architectural drawing of the rentable space was completed in 2005. If that is the case, the matter of presenting a true and correct rentable area should have been addressed and resolved outside this hearing room by the Complainant in discussion with an Assessor.

As a result, the Board concludes that in the absence of any conclusive evidence that would bring into question the rentable space as advanced by the Respondent in their Assessment Explanation Supplement (R-1, page 16), the Board is left with little alternative but to accept the Respondent's measurements as being correct.

Board's Decision:

It is the decision of the Board to reduce the assessment of the subject property for 2010 from \$4,320,000 to \$3,940,000. In this regard, it is noted that the taxable portion of the assessment amount is \$3,730,000, while the tax exempt portion is \$210,000.

Reasons:

The Board is persuaded by the equity comparables presented by the Complainant in that the characteristics of these comparables reflect the characteristics of the subject property. As for the equity comparables presented by the Respondent, the Board rejects the methodology used by the Respondent and, therefore, rejects the use of the assessment of each building through which the assessment for this Roll Number is determined.

As for the Complainant's request to base the assessment upon their representation of the rentable area, the supposition that the Respondent utilized incorrect measurements is not borne out in the evidence. Additionally, the question of the rentable space should be pursued by the Complainant through the normal channels of discussion with an appropriate Assessor.

In the final analysis, the Board concludes that a reduction in the assessment amount is warranted as a result of the equity comparables presented by the Complainant. Further to this, the Board, in its decision to reduce the assessment based upon the consideration of equity, also recognizes that a portion of the property is exempt from taxation.

DATED AT THE CITY OF CALGARY THIS 2 DAY OF December 2010.


Steven C. Kashuba

Presiding Officer

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.*