

NOTICE OF DECISION NO. 0098 14/12

Altus Group Limited
780-10180 101 ST NW
EDMONTON, AB T5J 3S4

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on June 7, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
4132056	10171 109 STREET NW	Plan: 9020932 Unit: 515	\$937,500	Annual New	2012
4132072	10147 109 STREET NW	Plan: 9020932 Unit: 517	\$731,500	Annual New	2012

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

cc: CAPITAL CENTRE NOMINEE COMPANY

Edmonton Composite Assessment Review Board

Citation: Altus Group Limited v The City of Edmonton, ECARB 2012-001480

Assessment Roll Number: 4132056 & 4132072

Municipal Address: 10171 109 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group Limited

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

James Fleming, Presiding Officer

Darryl Menzak, Board Member

Judy Shewchuk, Board Member

Preliminary Matters

- [1] The Complainant advised they would not be attending the hearing.
- [2] The Respondent indicated that the basis of the Complaint was the request for an exemption (based on use of the property) which the Respondent said had never been in dispute.
- [3] Because the Complainant did not withdraw the Complaint, a hearing was required. However, due to the similarity of the properties under complaint and the similarity of the issue for each property, the decisions for Roll Number 4132056 and 4132072 have been combined.

Background

- [4] Both properties are retail condominiums located on the ground floor of a mixed use high rise residential property built in 1981. Portions of both condos are leased by Norquest College, and the balance of the space is vacant in the case of Roll 4132072, and occupied by a Restaurant in the case of Roll 4132056. The property is zoned EZ (Enterprise Zone), and is assessed using the Direct Sales Comparison (DSC) method. The property in Roll 4132072 (10147 109 St.) is 3,029 square feet (sq. ft.) and the property in Roll 4132056 (10171 109 St.) is 3,997 sq. ft. This complaint is based on a request for an exemption for each of these properties.

Issue(s)

[5] The Complaint Forms filed by the Complainant constitute the disclosure in each case. In both cases the issue as set out on the Complaint Form is that ... “the Municipality has failed to recognize the tax-exempt status of Norquest College based on the definitions outlined in Section 362 and 364 of the Municipal Government Act (MGA), (sic) recognize all exemptions within the property or incorrectly calculated the percentage exempt.” The status for Roll 4132056 should be 55% Taxable. The status for Roll 4132072 should be 50% Taxable.

Legislation

[6] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

a) the valuation and other standards set out in the regulations,

b) the procedures set out in the regulations, and

c) the assessments of similar property or businesses in the same municipality.

s 460 (5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

(j) whether the property or business is exempt from taxation under Part 10

Position Of The Complainant

[7] The only information from the Complainant is the Complaint form wherein they ask for 55% taxable for Roll 4132056 and 50% taxable for Roll 4132072.

Position Of The Respondent

[8] The Respondent advised that the information concerning these appeals had been submitted as part of the package for previous complaints with the same role numbers. These earlier complaints were filed by another agent for a different issue.

[9] The Respondent advised that both of these properties had been tax-exempt since 2007, and at the present time the exemptions were 49.275% for Roll 4132056, and 53.897% for Roll 4132072.

[10] The Respondent asked that the exemption be confirmed at those amounts.

Decision

[11] The complaint is denied and the exemptions are confirmed as noted below:

Roll Number	Exemptions
4132056	49.275%
4132072	53.897%

Reasons For The Decision

[12] The CARB reviewed the basis of the exemptions and reviewed the calculation of the amount of the exemptions which is based on dividing the total area of the space by the area occupied by the exempt user. The CARB is convinced that the calculations are correct, and thus confirms the amount of the exemptions.

Dissenting Opinion

[13] There was no dissenting opinion

Heard commencing June 7, 2012.

Dated this 13th day of June, 2012, at the City of Edmonton, Alberta.

James Fleming, Presiding Officer

Appearances:

for the Complainant

Moreen Skarsen

for the Respondent