

NOTICE OF DECISION NO. 0098 151/12

Altus Group
780-10180 101 Street 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 August 8, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2718716	10544 124 Street NW	Plan: RN22 Block: 30 Lot: 18 / Plan: RN22 Block: 30 Lot: 19 / Plan: RN22 Block: 30 Lot: 20 / Plan: RN22 Block: 30 Lot: 19	\$1,056,500	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: 1286830 ALBERTA LTD

Edmonton Composite Assessment Review Board

Citation: 1286830 Alberta Ltd. v The City of Edmonton, 2012 ECARB 1375

Assessment Roll Number: 2718716

Municipal Address: 10544 124 Street NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

**1286830 Alberta Ltd. represented by
Altus Group**

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

**DECISION OF
Don Marchand, Presiding Officer
John Braim, Board Member
Brian Carbol, Board Member**

Preliminary Matters

[1] The parties were sworn in.

[2] Both parties indicated they had no objections to the composition of the CARB. Further, the CARB members indicated that they had no bias with respect to this matter.

[3] From the list of 12 issues filed and set out under the heading “Schedule of Issues” on page 3 of exhibit C-1, the complainant indicated that issues 1 - 6 were global and that the evidence for this complaint would be specific to the issues identified within numbers 7, 10, and 11.

Background

[4] The subject property is located in the Westmount neighbourhood at the southwest corner of 106th avenue and 124th street with surface parking in front of the improvements and with rear employee parking. The building is known as the J. E. II building. Its type of property is described as a one-storey retail/wholesale. The improvements have been treated with an effective age of 1995. The total area of the improvements is 5,427 square feet, demised into three tenant spaces that total 5,156 square feet. The improvements join together three lots that total 21,676 square feet (25% site coverage). The assessment for the subject roll number 2718716 is \$1,056,500.

[5] The capitalized income approach is the method of valuation chosen by both parties. The Complainant’s requested assessment is based on the income approach parameters and variables

concluded by the municipality relative to comparable assessment of the model as a “124th street district “B” class office building”.

[6] The 2012 assessment is based on the income approach parameters and variables concluded for comparable retail stores.

Issue

[7] Is the assessment of the subject reasonably measured by the income approach parameters determined for comparable “retail stores” or should the assessment of the subject be measured by the income parameters determined for comparable “124th street “B” class offices”?

Legislation

[8] 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.

[9] The CARB gave consideration to the meaning of market value and to the requirements of an assessment made pursuant its market value.

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer

[10] The CARB gave consideration to what the assessment must reflect.

s 289(2) Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- (b) the valuation and other standards set out in the regulations for that property.

[11] The valuation standard is set out within the,

Matters Relating to Assessment and Taxation Regulation, Alta. Reg. 220/2004

s 2 An assessment of property based on market value

- a) must be prepared using mass appraisal,
- b) must be an estimate of the value of the fee simple estate in the property, and
- c) must reflect typical market conditions for properties similar to that property

Position of the Complainant

[12] The Complainant submitted their request on the basis that the subject property's current use is that of an office building similar to other buildings determined by the Municipality to be part of a grouping of office properties called "124th street "B" class offices". Photographs of three current tenants' spaces were provided. The first space shows the name of Dr. Lena Kim, ND (Naturopathic Doctor) together with the entrance and waiting room. The second space is indentified as The Garage Photographs together with the entrance and waiting room. The third space shown is Rossetti Veterinary Center with two photographs of its waiting room.

[13] In support of the request to have the subject treated similarly to properties grouped as 124th street "B" class office spaces, five comparables complete with photographs, assessment details, and their office summary proformas were provided to the CARB.

[14] Based on the comparables provided, the difference in assessment and the requested assessment for the subject is set out in the following chart:

Table A

Parameters and Variables	Assessment	Request Assessment
	As a retails store	As a 124 th street "B" class office
Main Floor Space Rental rate	\$16.75 per sq. ft.	\$13.50 per sq. ft.
Vacancy Allowance	5%	7%
Structural Allowance	2%	2%
Vacancy Shortfall Allowance	\$4.50	\$13.00
Capitalization Rate	7.5%	7.5%

[15] Based on the application of the "124th street "B" class office" parameters and variables as shown in the above chart, the estimated Net Operating Income to be capitalized should be reduced from \$79,238 to \$63,435. Based on the capitalization rate of 7.5%, the requested assessment amount presented to the CARB is \$845,500.

[16] The Complainant provided a Network third party sales verification page produced by Network after the sale of the subject property in June of 2010, wherein the property type is labeled “Office Suburban”. The sales amount reported is \$1,000,000 for the subject property.

[17] The Complainant argued that when the time adjusted factor developed for “office type” properties is applied to the sale of \$1,000,000, the time adjusted sale price would be \$834,200, which is very close to the requested assessment of \$845,500.

Position of the Respondent

[18] The Respondent provided a copy of the income detail report for the subject as a retail store that applied the rental rate and variables set out in Table A of this order.

[19] Also provided was a copy of the Commercial Tennant Roll filled in by the owner. Under space type (Retail, Office, Warehouse), the owner indicated “Retail” and identifies the same tenants space as the Complainant. The rental rates for the subject’s space are \$17.50, \$12.75, and \$18. 00 per square foot respectively. The lease with the \$12.75 rate ended in January of 2012. The most current lease is the 5 year lease which started in November of 2010 for the \$18.00 per square foot rate.

[20] Four retail property assessment comparables were provided. All four are from the same neighbourhood as the subject. The year built ranged from 1964 to 1994 and the size range is from 2,441 to 7,276 square feet.

[21] The Respondent also provided a third party (Anderson Data Online) property information sheet confirming the sale of the subject in June of 2010 for \$1,000,000. The sheet identifies the subject’s description as “General Retail”.

[22] The Respondent provided a 2012 Commercial Time Adjustment table that indicates a 1.000 factor for sales as of June 2010 and that the time adjusted sale supports the 2012 assessment.

Findings

[23] The owner refers to the space leased as retail space.

[24] Both third party sales verification sheets indicate a net operating income amount, at the time of sale, similar to the assessment’s net operating income amount.

[25] One of the space’s uses recently changed from a sign shop to a photograph studio.

[26] The estimated net operating income calculated within the 2012 assessment detail report is supported by the net income reported within both third party sales verification sheets.

[27] The two and three storey built buildings used as comparables by the Complainant are not similar to the subject.

[28] The subject’s space is occupied with uses that are within a stratification titled General Retail and within the list of General Retail subgroups.

Decision

[29] The assessment of roll number 2718716 is confirmed at \$1,056,500.

Reasons for the Decision

[30] The CARB appreciates that certain types of occupancy can be found in a variety of buildings. Medical related use of space, including veterinary, can be found in stand alone buildings, in strip centers, in shopping centres, and in office buildings. This could also be said of studios of various types.

[31] The CARB accepts the Municipality's explanation of how the commercial retail property has been broken down into five major groups: General Retail, Plaza, Retail Office Condo, Gas Related/Auto Service, and Residential Conversion. General Retail can be further broken down into subgroups: Retail, Office, and Medical Office (3 of the 10 subgroups named).

[32] The income achievable by the subject is akin to that of similar retail buildings. This is important when estimating a property's income generating potential to be capitalized. The potential net income of the property when it sold in June 2010, as reported by the third party reports, is between \$74,486 and \$77,742. The 2012 potential income use in the assessment calculation is \$79,238. This suggests that the property traded on its potential as a retail property not as a 124th street "B" class office, which when calculated, is about 20% less in market value.

[33] The Complainant's multi-story comparables that have been grouped as part of the "124th street "B" class office" properties are not similar to the subject in their physical characteristics. They are purpose built offices and the space within functions as suburban office space, not retail store space. Therefore, the Board does not find these multi-story buildings persuasive.

[34] The subject is one storey, has off-street store front parking and has access to the rear, hence lower site coverage than the two one storey comparables shown by the Complainant. As a result, the CARB places little weight on the Complainant's two one storey comparables.

[35] In addition, the Complainant's one storey comparables at 10573 - 111th street and 12704 - 110th avenue are not similarly located nor configured to the subject. The evidence of 10573 - 111th street indicates a building of 5,089 square feet on a site of which only 1,800 square feet is occupied as a dental office. The balance of 3,289 square feet is shown as "CRU other" at a rental rate of \$6.00 per square foot; therefore, this comparable can hardly be used to support its categorization as an office building as such a small proportion of the site is actually comprised of office space. Moreover, the 10573 - 111th street comparable differs since the building is sited along the sidewalk with no off-street parking in front as the subject. As a result, the CARB does not find these comparables persuasive.

[36] The evidence of 12704 - 110th indicates a building of 7,340 square feet of which 4,918 square feet is office space for Rescom Inc. and the balance of 2,422 square feet is shown as "CRU other" with a rental rate of \$6.00 per square foot. Some weight is given to the complainant's position relative to the space shown as office space; however, the space identified as "CRU Other" is space not similar to the subject. Therefore, the Board places limited weight on this comparable.

Heard commencing August 8, 2012.

Dated this 23rd day of August, 2012, at the City of Edmonton, Alberta.

Don Marchand, Presiding Officer

Appearances:

John Trelford, Altus Group
for the Complainant

Gail Rookes, City of Edmonton
for the Respondent