



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 155/10

Altus Group Ltd
17327 - 106A Avenue
Edmonton, AB T5S 1M7

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 25, 2010 respecting a complaint for:

Roll Number 1659606	Municipal Address 8202 175 Street NW	Legal Description Plan: 7620073 Block: 12 Lot: 1B
Assessed Value \$6,547,000	Assessment Type Annual New	Assessment Notice for: 2010

Before:

Lillian Lundgren, Presiding Officer
Petra Hagemann, Board Member
Howard Worrell, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

David Fu, Altus Group Ltd

Persons Appearing: Respondent

John Ball, Assessment and Taxation Branch
Peter Bubula, Assessment and Taxation Branch

PRELIMINARY MATTER

The Respondent raised a preliminary matter respecting section 9(1) of the *Matters Relating To Assessment Complaints Regulation* (MRAC), Alta. Reg. 310/2009. The Respondent stated that the Complainant introduced five new issues that were not on the complaint form. The new issues are:

- 1) Issue 3 - the valuation of superior properties was not addressed on the complaint form;
- 2) Issue 5 - the capitalization rate should be increased based on comparables was not spoken to on the complaint form;
- 3) Issue 6 - vacancy shortfall issues were not spoken to on the complaint form;
- 4) Issue 8 - the property size issue was not spoken to on the complaint form;
- 5) Issue 9 - assessment inequitable when compared to other properties was not on the complaint form.

The Complainant explained that the property owner filed the original complaint and Altus Group was retained later in the complaint process. The Complainant addressed each of the following issues:

- 1) Issue 3 - Complainant agrees that it is not on the complaint form;
- 2) Issue 5 - Complainant states that the owner mentioned the capitalization rate of the subject sale in 2005, and therefore, the Board should allow the issue of capitalization rates to be heard;
- 3) Issue 6 - Complainant states that the assessment has a calculation error on vacancy shortfall;
- 4) Issue 8 - Complainant states that the assessment has a calculation error in the assessable area;
- 5) Issue 9 - Complainant agrees that it is not on the form. Recently the MGB heard the 2009 property assessment appeal for the subject property and reduced the assessment on this basis, therefore, this panel should hear this issue.

DECISION

Issues 3, 5, and 9 will not be heard. Issues 6 and 8 will be heard.

REASONS

Issues 3, 5, and 9 were not identified on the complaint form and must not be heard by the CARB in accordance with section 9(1) of MRAC. Issues 8 and 9 were not identified on the complaint form as issues, however the Board will hear what calculation errors, if any, the Complainant wishes to point out respecting vacancy shortfall and assessable area. The assessed value is being challenged in this complaint and the taxpayer has a reasonable expectation that the assessment is correctly calculated whether or not the taxpayer agrees with the parameters used to prepare the assessment.

MERIT HEARING

BACKGROUND

The subject property known as the Thorncliffe Shopping Centre is located at 8202 175 Street. It is a neighborhood (plaza style) shopping centre zoned CNC. The subject property was constructed in 1976 and is comprised of three buildings with a total gross building area of 58,857 square feet (sq. ft.) of which 58,317 sq. ft. is assessed. This complaint is filed on the basis that the assessment is incorrect.

ISSUES

1. What is the correct assessable area?
2. Are the rental rates used to prepare the assessment correct?
 - a) Bldg #2 CRU rental rate?
 - b) Restaurant rental rate?
 - c) Daycare rental rate?
 - d) Convenience store (C-store) rental rate?
 - e) Bldg #3 second floor rental rate?

LEGISLATION

The Municipal Government Act, R.S.A. 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.

POSITION OF THE COMPLAINANT

Issue 1. What is the correct assessable area?

The Complainant stated that the area used by the Respondent to assess the subject property is incorrect and the subject should be assessed on the net leasable area (NLA) of 55,034/ sq. ft. This is the area which is indicated on the rent roll and also on the third party report published by the Network.

Issue 2. Are the rental rates used to prepare the assessment correct?

- a) Bldg #2 CRU rental rate?

The Complainant argued that the rental rate of \$15.50/ sq. ft. used by the Respondent to prepare the assessment is too high. The Complainant provided the rental rates used to assess comparable spaces from the following locations: 550 Hermitage Rd. NW, 18294 97A Avenue NW, 11810 103 Street NW, 9108 179 Avenue NW, and 9108 179 Avenue NW. The rental rates average \$11.13/ sq. ft. and a \$12.00/ sq. ft. rate is requested.

b) Restaurant rental rate?

The Complainant argued that the rental rate of \$15.50/ sq. ft. is higher than the rental rates used to assess the restaurant spaces in four of the above comparables. It is noted that the first comparable has no restaurant space. The average rental rate is \$11.19/ sq. ft. and a \$12.00 rental rate is requested.

c) Daycare rental rate?

The Complainant argued that the rental rate of \$10.75/ sq. ft. is higher than the average rental rate of \$8.38/ sq. ft. used to assess similar daycare space in four of the above locations. A rental rate of \$8.50/ sq. ft. is requested.

d) C-store rental rate?

The Complainant argued that the rental rate of \$17.00/ sq. ft. is higher than the average rental rate of \$13.00/ sq. ft. used to assess three similar spaces in the above locations. A rental rate of \$13.00/ sq. ft. is requested.

e) Bldg #3 second floor rental rate?

The Complainant argued that the rental rate of \$7.25/ sq. ft. is higher than the average rental rate of \$5.50/ sq. ft. used to assess one of the spaces at 550 Hermitage Rd. NW. A rental rate of \$5.50/ sq. ft. is requested.

In conclusion, the Complainant is requesting a revised assessment of \$5,569,776.

POSITION OF THE RESPONDENT

Issue 1. What is the correct assessable area?

The Respondent explained that the gross building area is used to prepare the property assessments for all plaza style shopping centres because each of the tenant spaces are accessed from the exterior of the building and there is no common area. In the case of the subject property, the gross building area was used to assess Bldg #1, Bldg#2, and the main floor of Bldg #3. An adjustment to the second floor area of Bldg #3 was made to exclude the stairwells. Only 90% of the gross floor area of the second floor of Bldg #3 was used in the preparation of the assessment. Further, the Respondent submitted an architectural drawing by B. James Wensley Architect Ltd. showing the area used by the Respondent. The Respondent submits that the building size has not changed since these drawings were provided to the city when the shopping centre was constructed.

Issue 2. Are the rental rates used to prepare the assessment correct?

a) Bldg #2 CRU rental rates?

The Respondent provided no rental rate comparables for this type of space.

b) Restaurant rental rate?

The Respondent provided three comparable rents for similar restaurant space located at 9704 182 Street NW, 17703 98 Avenue NW, and 15803 87 Avenue NW for \$12.75/ sq. ft., \$21.75/ sq. ft., and \$14.50/ sq. ft. respectively. The Respondent requests that the rental rate of \$15.50/ sq. ft. used to prepare the assessment be confirmed.

c) Daycare rental rate?

The Respondent provide three rental comparables for daycare space located at 9704 182 Street NW, 7504 178 Street NW, and 6627 177 Street NW for \$9.50/ sq. ft., \$11.75/ sq. ft. and \$14.00/ sq. ft. respectively. The Respondent requests that the rental rate of \$10.75/ sq. ft. be confirmed.

d) C-store rental rate?

The Respondent provided four rental rate comparables for C-stores located at 9704 182 Street, 18204 89 Avenue NW, 16438 87 Avenue NW, and 16438 87 Avenue NW for \$20.25/ sq. ft., \$17.00/ sq. ft., \$22.25/ sq. ft. and \$27.00/ sq. ft. The Respondent requests that the rate of \$17.00/ sq. ft. be confirmed.

e) Bldg #3 second floor rental rate?

The Respondent provided no rental rate comparables for this type of space.

Sales comparables

In addition to rental rate comparables, the Respondent submitted three comparable plaza sales: 10174 175 Street NW sold in June 2007 for a time adjusted sale price (tasp) of \$188.00/ sq. ft., 5603 Riverbend Road NW sold in June 2007 for a tarp of \$120.00/ sq. ft.; and 6104 172 Street NW sold in August 2007 for a tarp of \$95.00/ sq. ft. It is the Respondent's position that the last two sales which are similar in size, location and age support the subject assessment. The Respondent is requesting confirmation of the subject assessment at \$6,547,000 (\$111.00/ sq. ft.).

FINDINGS

1. The gross building area used to prepare the assessment is the correct assessable area.
2. The rental rates used to prepare the assessments for Bldg #2 CRU space and restaurant space are higher than typical rental rates.
3. The rental rates used to prepare the assessments for daycare space, C-store space, and Bldg #3 second floor space reflect typical rental rates.

DECISION

This is an interim Board decision to reduce the subject property assessment. The Respondent is requested to recalculate the assessment based on revised rental rates for Bldg #2 CRU space at \$11.60/ sq. ft. and the restaurant space at \$12.60/ sq. ft. All other parameters used by the Respondent municipality to prepare the assessment are to be used in the recalculation of this assessment. The Respondent is requested to disclose the revised calculation to the Complainant no later than September 30, 2010. If the Complainant agrees with the mathematical recalculation of this assessment, the Board will issue a final decision showing the revised assessment. The Complainant is requested to advise the Board no later than October 15, 2010 in order that this matter is finalized in a timely manner.

REASONS FOR THE DECISION

Issue 1. What is the correct assessable area?

The Board agrees with the Respondent's use of the gross building area to prepare the assessments of this property type because there is no common area which is found in other, larger types of shopping centres. A 10% reduction for the stairwell space is reasonable.

At the outset of the hearing, the Complainant indicated that there is an error in the assessable area; however, the Complainant did not identify any error in the gross building area. The Complainant was in disagreement with the methodology (gross building area vs. net leasable area) not the assessable area as calculated.

Issue 2. Are the rental rates used to prepare the assessment correct?

a) Bldg #2 CRU rental rates?

The Board finds two of the Complainant's space comparables located at 18294 97A Avenue NW and 16616 109 Avenue NW to be similar in location and size. The average of these two comparables is \$11.60 (rounded). Since the Respondent provided no comparables for this space type, the Board relies on the Complainant's two best indicators. The rental rate is reduced to \$11.60/ sq. ft.

b) Restaurant rental rate?

The Board finds two good indicators of rental rates for this type of space provided by the Complainant which are located at 18294 97A Avenue NW and 16616 109 Avenue NW because they are of similar size and location. As well, two of the Respondent's comparables are good indicators because of size and location. These comparables are located at 9704 182 Street NW and 15803 87 Avenue NW. The average of the four comparables is \$12.60/ sq. ft. The rental rate for the restaurant area of the subject is reduced to \$12.60/ sq. ft.

c) Daycare rental rate?

The Board finds the only good comparable provided by the Complainant to be the one at 18394 97 Avenue NW because it is similar in location. The average rental rate of the Complainant's

one comparable and the Respondent's three comparables is \$11.19/sq.ft. and that supports the rental rate of \$10.75/sq.ft. used by the Respondent to prepare the assessment.

d) C-store rental rate?

The Board finds that the best evidence of a correct rental rate is the Respondent's comparable at 18204 89 Avenue NW because it is a plaza style development relatively close to the subject and similar in terms of size and age. The rental rate is \$17.00/ sq. ft. and supports the subject rental rate of \$17.00/ sq. ft.

e) Bldg #3 second floor rental rate?

The only comparable provided by the Complainant was located in a different quadrant of the City and therefore not sufficiently comparable to persuade the Board to alter the rental rate. The rental rate of \$7.25/ sq. ft. used to prepare the assessment is confirmed.

Sales Comparables

The Board agrees with the Respondent that two of the sales comparables may be similar to the subject, however, absent the sales data sheets from a third party source, there is insufficient supporting documentation to show whether or not these sales comparables are good comparables. The transfer documents do not have information on the condition of the property, or encumbrances or any other comments related to the sale of the property.

DISSENTING DECISION AND REASONS

There was no dissenting decision.

Dated this 31st day of August, 2010 at the City of Edmonton, in the Province of Alberta.

Presiding Officer

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, R.S.A. 2000, c.M-26.

CC: Municipal Government Board
1109079 Alberta Inc.