

NOTICE OF DECISION NO. 0098 157/12

Altus Group
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 August 14, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
6350219	13022 97 Street NW	Plan: 618KS Block: 10 Lot: 4	\$752,500	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: LAZY B CORPORATION

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 602

Assessment Roll Number: 6350219
Municipal Address: 13022 97 Street NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
Pam Gill, Board Member
Jack Jones, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Background

[2] The subject property was built in 1971 in the Lauderdale subdivision of Edmonton and is assessed as an auto service. The building has an area of 3,321 square feet (sq.ft.). The subject property has been assessed for 2012 utilizing the direct sales comparison approach to valuation based on sales occurring between January 2008 and June 2011.

Issue(s)

[3] Is the 2012 assessment of the subject property fair and equitable?

Legislation

[4] The *Municipal Government Act* reads:

Municipal Government Act, RSA 2000, c M-26

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;

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

[5] The Complainant presented evidence (C-1 and C-2) and argument for the Board’s review and consideration.

[6] The Complainant argued that the subject property is over-assessed based on market value, and stated that the Respondent applied an income value of \$18.50 per sq.ft. (C-1, page 10).

[7] The Complainant provided nine assessment lease rate comparables (C-1, page 15) that ranged from \$11.00 to \$16.50 per sq.ft. The Complainant requested that the median of \$13.75 per sq.ft. be applied to the subject.

[8] The Complainant also provided a sale comparable (C-1, page 12) located in the same market area as the subject at \$149.38 per sq.ft. or a rental rate of \$12.96 per sq.ft. The subject is assessed at \$215.19 per sq.ft. The Complainant noted that the Respondent did not produce any evidence to cast doubt on the validity of the sale.

[9] Upon questioning by the Respondent, the Complainant acknowledged that none of the nine assessment lease rate comparable properties were located on 97th Street.

[10] In response to the Respondent’s actual rents from area comparables (R-1, page 12), the Complainant pointed out that there was no way for them to ascertain that the information was accurate without the property details.

[11] The Complainant also referenced a 2011 CARB decision (C-2, pages 3-6) for a similarly located property; the assessment in that case was reduced based on a reduction in the lease rate

from \$18.25 to \$14.50 per sq.ft., which supports the requested reduction in lease rate for the subject.

[12] In summary, the Complainant requested the 2012 assessment of the subject property be reduced to \$556,500 based on the market lease rate of \$13.75 per sq.ft. derived from the assessment comparables.

Position of the Respondent

[13] The Respondent presented evidence (R-1) and argument for the Board's review and consideration.

[14] The Respondent provided six assessment lease rate comparables in the subject's market area (R-1, page 11) ranging from \$18.25 to \$20.75 per sq.ft.

[15] The Respondent also provided four actual rents from the area (R-1, page 12) ranging from \$16.00 to \$24.64 per sq.ft. The locations of these properties could not be disclosed due to privacy concerns.

[16] In response to the Complainant's comparables (C-1, page 15), the Respondent indicated that none of the comparables presented by the Complainant were located on 97th Street.

[17] In response to the Complainant's sales comparable (C-1, page 12), the Respondent noted that the purchaser was the lessee, and there was no evidence of market exposure. The Respondent also submitted that one sale does not indicate market value.

[18] In response to the rebuttal evidence, particularly the previous Board decision (C-2, pages 3-6) the Respondent noted that every year is a new year with respect to assessment, and previous years do not factor into the assessment calculation. The Respondent also noted that in that decision the Board had criticized the Respondent's comparables as they were scattered all over the city and did not include comparables in the subject's market area.

[19] In summary, the Respondent requested the 2012 assessment of the subject property be confirmed at \$752,500.

Decision

[20] The Board's decision is to confirm the assessment of the subject property at \$752,500.

Reasons for the Decision

[21] In reaching its decision, the Board considered all argument and evidence.

[22] The Board placed little weight on the Complainant's assessment lease rate comparables as they are located outside of the subject property's market area.

[23] The sales comparable presented by the Complainant was the only piece of evidence left for the Board to consider, however the Board was not persuaded by the lone sale to justify a reduction. The Board noted that the sale was to the lessee of the subject and may have been a motivated sale.

[24] The comparables provided by the Respondent are in the market area of the subject and indicate that the assessment is fair and equitable at the market lease rate of \$18.50 per sq.ft.

[25] The Board placed little weight on the previous year's decision (C-2 pages 3-6) that was provided by the Complainant, as the decision was made for different reasons and the Board is not obligated to adhere to previous decisions.

Dissenting Opinion

[26] There was no dissenting opinion.

Heard commencing August 14, 2012.

Dated this 28th day of August, 2012, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

John Trelford, Altus Group
for the Complainant

Chris Rumsey, Assessor, City of Edmonton
for the Respondent