



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 174/10

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 3, 2010, respecting a complaint for:

Roll Number 6350425	Municipal Address 13150 97 STREET NW	Legal Description Plan: 618KS Block: 10 Lot: 13
Assessed Value \$1,863,500	Assessment Type Annual New	Assessment Notice For: 2010

Before:

Board Officer: Kyle MacLeod

Lynn Patrick, Presiding Officer
Judy Shewchuk, Board Member
George Zaharia, Board Member

Persons Appearing: Complainant
David Fu – Altus Group

Persons Appearing: Respondent
John Ball, Assessor, City of Edmonton
Veronika Ferenc-Berry, Attorney, City of
Edmonton

PRELIMINARY MATTERS

The Respondent submitted that of the seven issues set forth in the Complainant's written submission there were four that were not set out in the Complaint Form and therefore evidence and arguments in support of these issues should not be heard.

The Complaint Form, Section 5 – Reasons for Complaint, sets forth the following:

"Rental rate for ground floor should be 23.00 and 3.00 for basement. Cap Rate @ 7.5%"

The Complainant disclosure, marked as Exhibit C-1, listed seven issues.

The Respondent's position with respect to the issues in the matter is that according to *Matters Relating to Assessment Complaints Regulation* (MRAC), the Board must not hear any matter in support of any issue not set forth in the Complaint Form

The Respondent requests the Board delete the issues numbered 4, 5, 6 and 7 on the basis that only market rental rates and capitalization rate are raised as issues by the Complainant.

The Complainant's position is that the additional matters raised in the list of seven issues are not new but are extensions of the matters raised in Section 5 of the Complaint Form. The Complainant submits that the request to adjust the area, capitalization rate and rental rates implies the issue of fairness and equity in respect to the process of arriving at the typical net operating income and of the market value derived from the process.

It is the decision of the Board that following the deletion of issues 4, 5 and 6, the remaining issues 1, 2, 3 and 7 are issues properly before the Board and arise from the reasons listed in section 5 of the Complaint Form.

The reasons in the Complaint Form deal with rental rates applied by the Respondent and those are mentioned in issues 1. and 7. The capitalization rate mentioned in the Complaint Form is raised in issues 2 and 3 and for these reasons the objection by the Respondent is resolved by the deletion of issues 4, 5 and 6 from the disclosure as well as any matters of evidence that are contained in exhibits C-1 and C-2.

BACKGROUND

The property is located at 13150 97 Street NW in the City of Edmonton and consists of a retail bank owned and operated by The Bank of Nova Scotia. The improvements consist of a main floor area of 4,852 square feet and a basement area of 2,824 square feet located on an 8,826 square foot parcel of land assessed at \$1,863,500.

ISSUES

Is the 2010 assessment fair and equitable?

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.

Matters Relating to Assessment Complaints Regulation, Alberta Regulation 310/2009;

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.

s. 9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

s. 13(1) For the purposes of section 468 of the Act, a decision of an assessment review board must include

- (a) a brief summary of the matters or issues contained on the complaint form,

POSITION OF THE COMPLAINANT

Main Floor Rental Rate

The Complainant submitted at the outset that it was abandoning the request that the main floor rental rate of \$27.00 be reduced to \$23.00 and agreed that the \$27.00 rental rate was the typical net rental rate for the subject.

Basement Rental Rate

The Complainant submits that in the practice of leasing, generally no rental rate is applied to areas such as mezzanine or basements because they are not viewed as revenue generating. Therefore, in regards to the rental rate for the basement area, the Complainant requests the rate be reduced from \$4.50 per square foot to \$1.00 per square foot. This on the basis that the Respondent has applied a rental rate to an area of the subject property where typically no revenue is generated and therefore should be assessed at the nominal rate of \$1.00 per square foot.

In support of this argument the Complainant submitted the Altus Mezzanine, Basement & Garden Centre Analysis which provides samples of leases for a variety of types of retail properties to show that the tenants and landlords consider the basement space should be treated as non revenue generating. The Complainant seeks to bring this practice to the assessment process by suggesting it should be applied through use of s. 2(b) of Matters Relating to Assessment and Taxation Regulation (*MRAT*) which says an assessment based on market value must reflect typical market conditions for similar properties.

Capitalization Rate.

The 'Capitalization Rate Review for Banks' study produced by the Complainant contained 21 bank comparables, approximately half of which were in the NW sector of the city where the subject is located, while the remainder were fairly evenly spread throughout the remaining 3 quadrants. The capitalization rates range was from 7.5% to 9% with the bank pad average at 7.72% compared to the subject at 7%. The Complainant's Capitalization Rate Review – 97 Street contained 9 comparables ranging from 8% to 8.5%, the median of which is 8%. The properties in the 97 Street study were primarily retail centres but were submitted to indicate that 97 Street received higher capitalization rates than areas such as Whyte Avenue and supported the request for an increase in respect to the subject to 8%.

POSITION OF THE RESPONDENT

Basement Rental Rate

The Respondent submitted that the leasing practices of landlords and tenants with respect to basement space (as shown in the Complainants materials) were not applicable to assessments on any basis other than perhaps equity, where it may demonstrate similar properties were receiving nominal rental rates for the assessment. In this instance no comparables similar to banks were produced into evidence and the Respondent contended that basements in banks were fully engaged in the support of the retail activities carried out on the main floor of the subject. Typically no customers of the banks are permitted to enter the basement and it has no exterior access that could be used to accommodate a tenant should that use situation be contemplated. The comparable equity rents used by the Respondent indicate a city wide basement rental rate of \$4.50 per square foot has been used in the assessment of bank retail properties.

Capitalization Rate

The Respondent submitted that the subject property has very positive attributes that makes it above average. The location is on a high volume traffic corner and 7 of the 16 comparable bank locations in the city listed in the equity study of the Respondent support the capitalization rate of 7%

DECISION

The Board revises the 2010 assessment from \$1,863,500 to \$1,683,500.

REASONS FOR THE DECISION

The issue of the correct rental rate for the main floor space of the subject was abandoned by the Complainant and the Board accepts the evidence of the Respondent in support of the \$27.00 per square foot rate applied by the Respondent in determining the effective gross income for the subject as the typical rental rate. Accordingly it is the Board's decision that the complaint on this issue be dismissed and the rental rate used by the Respondent is the correct rate for the main floor space for assessment purposes.

On the issue of the basement rental rate the Board accepts the evidence of the Respondent that the rate of \$4.50 is used throughout the City of Edmonton in respect to retail banks. There was a lack of bank comparables offered by the Complainant to support the request to reduce the rate to \$1.00 per square foot and the Board does not accept that basement space is not assessable or only at a nominal rate because the landlord and tenant practices in leasing do not assign a rental rate to such space. Therefore the complaint with respect to the reduction of the basement rental rate of the subject property from \$4.50 per square foot to \$1.00 per square foot is dismissed.

With respect to the capitalization issue the Board notes that the Respondent's comparables tended to support that a higher rate than 7.00% prevailed with respect to banks in the city with the exception of the Whyte Avenue area. The evidence of the Complainant supported a higher capitalization rate and the median rate of 7.72% from the Complainant's study carried the most weight. Supported by the Respondent's own numbers, the Board adjusts the capitalization rate for the subject from 7.00% to 7.75% and as a result of that adjustment the assessment is reduced to \$1,683,500.

Dated this 4th day of August, 2010, at the City of Edmonton, in the Province of Alberta.

Lynn Patrick
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: NASSER, IQBAL/SCOTIABANK
BANK OF NOVA SCOTIA PROP INC
MUNICIPAL GOVERNMENT BOARD