



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 402/11

Altus Group
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 December 6, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9988390	13530 137 Avenue NW	Plan: 0121793 Block: 5 Lot: 4	\$19,781,500	Annual New	2011

Before:

Tom Robert, Presiding Officer
Mary Sheldon, Board Member
Brian Carbol, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

John Trelford, Altus Group Ltd

Persons Appearing on behalf of Respondent:

Tim Dmytruk, Assessor, City of Edmonton
Tanya Smith, Barrister & Solicitor, City of Edmonton

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

At the outset of the hearing, the Complainant raised a preliminary matter, indicating that the Respondent's disclosure contained post facto information that could not be verified. Upon questioning, the Complainant confirmed that the Respondent's disclosure had been received in time and that was not an issue. The Board also heard submissions from the Respondent. The Board decided that the entire Respondent's disclosure should be entered as evidence and that the Board would place the weight it deemed appropriate on any post facto information.

BACKGROUND

The subject property is a Power Centre known as the Skyview Centre located on 137 Avenue in Edmonton. The subject of appeal is the area known as Phase 1 and is specific to the Junior Anchor tenants of Home Outfitters, Winners and the Restaurant Pad known as Kelseys. The subject's assessment is calculated pursuant to the income approach to value.

The Junior Anchor space is 68,651 square feet and the Restaurant Pad space is 5,054 square feet. The total building area of Phase 1 is 100,334 square feet and the land area consists of 329,914 square feet. The balance of the Centre is not under appeal.

ISSUES

- What is the market rent of the Junior Anchor tenants as of July 1, 2010?
- What is the market rent of the Restaurant Pad as of July 1, 2010?

LEGISLATION

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.*

POSITION OF THE COMPLAINANT

In regard to the Junior Anchor tenants, the Complainant argues that the requested amount of \$14.25 p.s.f is also supported by the comparable lease rates.

The Complainant provided three lease rate comparables of Junior Anchor tenants ranging from \$9.25 to \$16.00 p.s.f. The average of the comparables is \$12.65 and the median amount is \$12.65 p.s.f. The requested amount for the Junior Anchor tenants is \$14.25.

The Complainant further argues that the actual lease rates also support the requested amount. The Home Outfitters lease (October 18/01 – October 17/16) is at \$14.75 p.s.f. and the Winners lease (September 27/01 – September 30/11) is at \$11.25 p.s.f. The average is \$13.00 p.s.f.

In regard to the lease rates for the restaurant pad, the Complainant presented seven lease rate comparables ranging from \$15.50 to \$28.00 p.s.f. The average is \$22.36 p.s.f. the median is \$23.00 p.s.f. and the requested rate is \$27.00 p.s.f. The Complainant noted that the actual lease rate for the subject pad is \$27.00 p.s.f. which is the basis for his request. This lease commenced August 19/02 and expires August 18, 2012.

The Complainant's requested assessment based on Junior Anchor space at \$14.25 p.s.f. and the restaurant pad space of \$27.00 p.s.f. is a reduction to \$18,377,000 from the 2011 assessment of \$19,781,500.

POSITION OF THE RESPONDENT

The Respondent argues that the assessment of the subject property adjusts for all attributes that impact market value in arriving at a typical market value and that actual lease rates although considered are not used exclusively in arriving at an assessed value.

The Respondent provided 17 equity comparables of Junior Anchor tenants lease space in power centres across the City of Edmonton. The blended rate of \$15.75 p.s.f. applied to the subject Junior Anchor space is derived from Class A space at \$ 18.00 p.s.f. and Class B space at \$12.50 as categorized by the Respondent. The rates are weighed to arrive at the value of \$15.75 p.s.f. In regard to the subject property, the Class B space consists of 28,007 s.f. at \$12.50 p.s.f. and the Class A space of 46,574 s.f at \$18.00 p.s.f.

In support, the Respondent further provided lease information on Power Centre space of 20,000 s.f. to 50,000 s.f. with leases ranging from \$17.50 p.s.f. to \$27.00 p.s.f. with an average of \$20.87 p.s.f. The lease terms were approximately 10 to 15 year terms. No information was provided as to location, tenant or space as it is argued that this information falls to FOIP.

In regard to the restaurant pad, the Respondent provided thirty-two equity comparables all at \$30.00 p.s.f.

Further, the Respondent provided six power centre lease rates ranging from \$27.50 p.s.f to \$35.92 with an average of \$31.69 p.s.f. The assessment used for these properties is \$30.00 p.s.f. The tenants name, location and size was not indicated as this falls to FOIP. The listing indicates that the size of these comparables ranges from 3,000 to 6,000 s.f with approximately 5 to 10 year terms.

The Respondent deems the assessment to be fair and equitable and requests that the 2011 assessment be confirmed at \$19,781,500.

DECISION

The decision of the Board is to confirm the current assessment of the subject at \$19,781,500.

REASONS FOR THE DECISION

The Board was not persuaded by the Complainant's lease rate comparables for Junior Anchor space in that the comparability to the subject was insufficient with regard to location, age and lease detail.

Specifically, the Complainant's comparable #1 is not located in a Power Centre and is inferior in terms of location. With respect to the Complainant's comparable #2, the lease term of that comparable expires in 2011. This suggests that the lease rate is somewhat dated. No lease data was presented in support of the Complainant's position. With respect to the Complainant's comparable #3, the space is used for a fitness centre and is not comparable to the subject in terms of finish or location.

The Complainant submitted to the Board that actual lease rates in place were used in some parts of the Respondent's pro forma for Phase 1 to support a typical market rate. In the view of the Board this is not supported by the Complainant's request that \$14.25 per square foot for the Junior Anchor tenants is appropriate considering that the leases are dated (October 18, 2001 and August 19, 2002). Further, the Board is not convinced that the evidence in regard to the comparables presented or the actual lease rates in place represent a sufficient amount of comparables to alter the current rate of \$15.75.

With respect to the Restaurant Pad lease rate issue, the Board was not persuaded that the actual lease rate in place was representative of the typical rate. The lease commenced August 19, 2002 and expires August 18, 2012. This suggests that the rate is somewhat dated. The comparables presented for Restaurant Pad space are not located in Power Centres and are somewhat smaller. The matter raised in regard to economies of scale was not sufficiently supported by evidence.

The Board concluded that the Complainant had not presented sufficient compelling evidence to convince the Board that the assessment was not fair and equitable.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 6th day of December, 2011, at the City of Edmonton, in the Province of Alberta.

Tom Robert, 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, RSA 2000, c M-26.

cc: Skyview Equities Inc.