

NOTICE OF DECISION NO. 0098 48/12

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 (the Board) from a hearing held on June 13, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9975121	11120 178 Street NW	Plan: 9926390 Block: 1 Lot: A	\$8,918,500	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: Morgex Building Nominee Company

Edmonton Composite Assessment Review Board (the Board)

Citation: Altus Group v The City of Edmonton, 2012 ECARB 966

Assessment Roll Number: 9975121
Municipal Address: 11120 178 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
John Noonan, Presiding Officer
Brian Hetherington, Board Member
James Wall, Board Member

Preliminary Matters

[1] Both parties expressed no objection to the composition of the Board.

Background

[2] The subject property is a single-storey 53,000 square foot office building occupying a 206,955 square foot lot on 111 Avenue, between 178 Street and 180 Street. The 2012 assessment was prepared by the capitalized income approach.

Issue

[3] The initial complaint identified eight different issues, but the Board heard evidence and argument on a single issue:

Should the vacancy rate for the subject property be increased to 13% from the 7% used by the City?

Legislation

[4] 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.

Position of the Complainant

[5] The Complainant told the Board that the only matter he was presenting for the Board's consideration was a request for an increase in the vacancy allowance to 13% from the City's allocation of 7% for Class A buildings.

[6] In support of his request, the Complainant presented market reports on vacancies in the Edmonton office marketplace prepared by Cushman & Wakefield, CB Richard Ellis, Colliers International and Avison Young. These reports showed second quarter 2011 West End Edmonton office vacancy rates, across all classes, ranging from 11.2 – 14.8%. The Cushman information was accompanied by a detailed profile of 24 West End Class B office properties that included the subject and determined an average vacancy rate of 15.4%.

[7] He also supplemented this with a chart prepared by Altus Insite on Class B buildings in Edmonton's West End. This chart of 12 office properties showed an overall vacancy of 64,636 square feet, representing 12.12% of the total 533,228 square feet of available space in those buildings. The subject was not included in the list.

[8] He acknowledged that the actual vacancy in the subject property was nil.

[9] In questions, he acknowledged that the City had classified the subject as an A class building, but the Altus Insite vacancy rate was for B class offices. Cushman & Wakefield included the subject in their B class survey information.

[10] He acknowledged that there was a significant difference in the vacancies attributed to the Quikcard Building on two of his presented charts, with Cushman & Wakefield showing no vacancies, while the Altus Insite chart presents a vacancy of 3,038 square feet, or 8.5% of the building. Similarly, the two reporting agencies had differing vacancies at Centre 170: Altus Insite stated 52,129 square feet as vacant compared to 90,329 square feet reported by Cushman & Wakefield.

Position of the Respondent

[11] The Respondent submitted a 149-page presentation including the City's Law and Legislation brief.

[12] The Respondent indicated that third-party surveys on vacancy were used by the assessment department as a check only against actual information obtained from owners under

the Request for Information (RFI) process. A 2009 Colliers report was highlighted, showing that space becoming available within the next six months was included in the “availability rate”.

[13] Several Board decisions provided by the Respondent discussed the reliability of third-party data surveys. In particular, the Respondent referred to a decision of the Composite Assessment Review Board (CARB) from a hearing held on March 6th and 21st, 2012. The Respondent drew the Board’s attention to the CARB’s comments on third-party information. The Board in that decision wrote: *“In the case of the Complainant, reliance on third-party data sources was problematic. Various assessment tribunals have expressed limited confidence in third-party studies because of the use for which they were prepared (generally marketing) and more particularly because of the nature of the disclaimers used in the studies”*.

[14] The Respondent noted that the rent rolls for the subject property received from the owner at the City’s request indicated a 0% vacancy for the last three years, showing clearly that the subject property has not had a chronic vacancy problem. The Respondent indicated that the City only considers a property to have a chronic vacancy problem if it occurs over three consecutive years.

[15] Suburban office vacancy studies for AA, A and B class properties were presented. The A class vacancy rate across all suburban areas averaged 7%. The City had received seven RFI responses from an inventory of eight West End A class office buildings and the average vacancy in that category was 6.69% compared to the 7% rate applied in the assessments of these properties.

[16] In closing, the Respondent requested confirmation of the assessment.

Rebuttal

[17] The Respondent noted the Complainant’s rebuttal document was not compliant with the *Matters Relating to Assessment Complaints Regulation* AR 310/09, in that the document was unsigned and no estimate of time required for presentation was indicated. However, no objection was made and the Complainant presented his rebuttal.

[18] The Rebuttal document repeated the results of the Respondent’s vacancy rate survey (including the subject property) received from office building owners in 2011. The Complainant calculated un-weighted averages of 6.52%, 7.47% and 5.75% for all AA, A and B buildings respectively located in various areas of the City. The Complainant presented this information as his argument against using un-weighted averages.

Decision

[18] The Board upholds the City’s use of a 7% vacancy rate when calculating the 2012 assessment for the subject property. Accordingly, the Board confirms the assessment of \$8,918,500.

Reasons for the Decision

[19] The Board accepted the evidence presented by the Respondent that the average vacancy rate of Class A buildings in the West End was 6.69%. This information came from seven RFI responses out of a total inventory of eight properties in the same class and general area. Further,

there was no appreciable difference in the vacancy rate, on average, if the area was expanded to encompass all suburban areas.

[20] The Complainant's information was found to be less reliable. Two cases were illustrated where different reports found quite different vacancies at the same property. Additionally, two of the reports presented information for Class B vacancy whereas the subject is a Class A property. These shortcomings convinced the Board that the City's vacancy data was more accurate.

Heard June 13, 2012.

Dated this 4th day of July, 2012, at the City of Edmonton, Alberta.

John Noonan, Presiding Officer

Appearances:

Kerry Reimer, Altus Group
for the Complainant

Tanya Smith, Legal Counsel
Tracy Ryan, Assessor
for the Respondent