

NOTICE OF DECISION NO. 0098 50/12

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:
8953606	9803 31 Avenue NW	Plan: 7520875 Block: 3 Lot: 1	\$5,742,500	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: 408652 Alberta Ltd.

Edmonton Composite Assessment Review Board (the Board)

Citation: Altus Group v The City of Edmonton, 2012 ECARB 1379

Assessment Roll Number: 8953606
Municipal Address: 9803 31 Avenue 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
James Wall, Board Member
Brian Hetherington, Board Member

Preliminary Matters

[1] The Complainant questioned the size of the subject improvement as stated in the original 2012 assessment document. The Respondent agreed with the Complainant that the total area of the subject building was overstated by 26 square feet in the original assessment. The Respondent recommended a correction based on this size discrepancy, which would result in a reduction of the 2012 assessment to \$5,737,500 from the original \$5,742,500.

Background

[2] The subject property is a 31,475 square foot class B, single story office structure known as the Richfield Building. The building was constructed in the mid 1970s and is located at 9803 31st Avenue NW, in the Southeast industrial area of the City of Edmonton. The 2012 assessment was prepared using the capitalized income approach.

Issues

[3] The Complainant's written materials outlined 11 issues, but the Board heard evidence and argument on a single issue:

In calculating the assessment, should the vacancy rate be increased to 12% from 7%?

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 provided the Board with a 63-page brief containing evidence to show that the vacancy rate used by the City (7%) to calculate the 2012 assessment for the subject property is too low. Consequently, the value of the subject property is over-stated.

[6] The Complainant relied upon third party vacancy surveys, which included an analysis of vacancy rates for both the downtown and suburban office building market. The Complainant stated that the 2011 mid-year vacancy rates quoted for the Southside area were as follows: Colliers International-14.93%; Cushman & Wakefield-19.60%; C. B. Richard Ellis-16.00% and Avison Young-12.80%. The vacancy rate quoted by Altus Insite for class B buildings such as the subject, in the Southside area of the City in the second quarter of 2011 was 10.12%.

[7] The Complainant stated that the lease on unit 3051 in the subject building expired in May 2011. The tenant did not renew the lease; the space became vacant and remains vacant as at the writing of the Complainant's brief. The area of this vacant unit is 5,932 square feet representing 18.85% of the total building area.

[8] The Complainant placed particular emphasis on the Cushman & Wakefield second quarter vacancy survey of twenty southside suburban office buildings, including the subject property. The survey of 756,380 square feet indicated that 150,890 square feet or 19.9% were vacant.

[9] The Complainant provided the Board with a reconstructed Office Summary for the subject property. This document used a 12% vacancy rate, not 7% as utilized by the City assessment department and this resulted in a recalculated 2012 assessment of \$5,136,000.

[10] A 12% vacancy allowance was a closer reflection of the rates reported by industry surveys, and the Complainant requested the Board reduce the 2012 assessment of the subject property to \$5,136,000.

Position of the Respondent

[11] The Respondent provided the Board with a 144-page brief. The brief contained maps, photos of the subject property, a Suburban Office Summary for the subject property and copies of Request for Information (RFI) responses received from the owner of the subject property. In addition, the brief contained a chart showing the assessment parameters applied to all suburban offices, and a suburban vacancy study showing the vacancy rates reported on RFI returns for all suburban Class B and Class A properties. City-wide, the Class B vacancy rate averaged 6%.

[12] The Respondent told the Board that of 40 requests for rental and vacancy information sent to owners of southside B class office buildings, 31 owners complied. The 31 responses showed a vacancy rate of 6.98% as at April 2011 for this property class. A vacancy rate of 7% was used in valuing the subject property for the 2012 assessment, and the same typical vacancy rate had been equitably applied to all other B class offices.

[13] The Respondent indicated that third-party vacancy surveys were used by the assessment department as a check only against actual information obtained from owners. In questions to the Complainant, the Respondent noted an example of the inconsistency of third party data with respect to reporting of vacancies. Specifically, there is a discrepancy in the results reported by two different companies for the vacancy at the property known as Argyll Centre at 6325 Gateway Boulevard. In a second quarter 2011 survey, Cushman & Wakefield reported 11,852 sq.ft. vacant while Altus Insite for the same quarter reported 50,592 sq.ft. vacant. Choosing the lower reported vacancy would reduce the overall stated Altus Insite vacancy rate for their 29-property sampling from 10.12% to 6.5%.

[14] 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 March 6th and 21st 2012. The Respondent to the Board's attention to the CARB's comments on third-party information. The Board in that decision said: *"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"*.

[15] The Respondent noted that the rent rolls for the subject property, received in the RFI return from the property owner, indicated a 0% vacancy prior to May 2011, showing clearly that the subject property has not had a chronic vacancy problem. The Respondent advised that the City only considers a property to have a chronic vacancy problem if it occurs over three consecutive years.

[16] The Respondent recommended the assessment be changed to \$5,737,500 to account for the slightly reduced size of the subject.

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

[19] The Board upholds the City's use of a 7% vacancy rate when calculating the 2012 assessment for the subject property. The Board accepts the recommendation and changes the 2012 assessment to \$5,737,500.

Reasons for the Decision

[20] The Complainant's evidence consisted mainly of third-party information on vacancy rates in class B office buildings located in the Southside area of the City. The Board is struck by the wide range reported by the various companies in their surveys, from 10.12% to a high of 19.9%. As noted by the Respondent, that range might be as low as 6.5% if it were found that the vacancy at Argyll Centre was 11,852 sq.ft. rather than 50,592 sq.ft. Such a wide reported range raises concerns as to the reliability of the reported information. The City noted that different agencies variously included in their reported numbers prospective vacancies and space available for sub-let. The Board sees no other reasonable explanation for such a wide range.

[21] The RFI information provides a snapshot of vacancy rates in Edmonton, and the Board finds this evidence more reliable than the evidence generated by the third parties. It is the Board's opinion that the rental rate information from the 31 RFI responses, which averaged 6.98%, strongly supports the 7% rental rate used in the assessment of the subject property.

Heard June 13, 2012.

Dated this 10th 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