



## **ASSESSMENT REVIEW BOARD**

MAIN FLOOR CITY HALL  
1 SIR WINSTON CHURCHILL SQUARE  
EDMONTON AB T5J 2R7  
(780) 496-5026 FAX (780) 496-8199

### **NOTICE OF DECISION NO. 0098 601/10**

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 November 16, 2010 respecting a complaint for:

<b>Roll Number</b> 2079804	<b>Municipal Address</b> 10140 – 142 St. NW	<b>Legal Description</b> Plan: 4832AH Block: E Lots: 12-14
<b>Assessed Value</b> \$691,000	<b>Assessment Type</b> Annual New	<b>Assessment Notice for:</b> 2010

#### **Before:**

Tom Robert, Presiding Officer  
Tom Eapen, Board Member  
John Braim, Board Member

#### **Board Officer:**

J. Halicki

#### **Persons Appearing: Complainant**

Anthony Patenaude, Agent  
Altus Group Ltd.

#### **Persons Appearing: Respondent**

Peter Bubula, Assessor  
Ryan Heit, Assessor

#### **Observer:**

Jordan Thachuk, Altus Group Ltd.

### **PROCEDURAL MATTERS**

The parties expressed no objection as to the composition of the CARB; Board Members expressed no bias toward this or any of the other accounts appearing on the agenda. The parties were reminded they were still under oath or affirmation.

## **BACKGROUND**

Located in the Grovenor neighbourhood, the subject property is a two-storey retail structure built in 1959 with an effective age of 1960. It contains a gross building area of approximately 10,597 ft<sup>2</sup> and is situated on a parcel of land extending to 11,071 ft<sup>2</sup>. The main floor has an approximate net leasable area of 6,510 ft<sup>2</sup> and the upper floor 3,370 ft<sup>2</sup>. It has been assessed as if in average condition and the assessment derived by using the income approach to value.

## **ISSUES**

1. Is the assessment too high?
2. Are the assessed lease rates for the main floor and upper level excessive?
3. Is the condition of the building average or fair?

## **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.*

## **POSITION OF THE COMPLAINANT**

The Complainant maintained the lease rates for the two levels are too high and the condition of the property is fair, as opposed to average, as determined by the Respondent.

The Complainant provided a brief with evidence stating it had been unoccupied since 2006. Furthermore, there was no intention to lease it in the future as the building required extensive repairs and could not obtain rents that would justify the expenditure on repairs that would make the building rentable. In effect, the building had been abandoned and both heat and power had been disconnected. It was being treated as redevelopment property to be done in conjunction with adjoining properties.

The Complainant provided details (C1, pg. 26) of a recent lease of a building (14215 & 14219 Stony Plain Road) just west of the subject property. It is a one-storey retail building. The lease was for a five year term and commenced February 15, 2009 for 5,280 ft<sup>2</sup> at \$3,500 per month plus \$300 operating costs. This equates to a rate of \$7.95/ft<sup>2</sup> for the main floor space.

The Complainant also provided in the Appendix (C1, pg. 17 onwards) indicating that comparable properties had been assessed at \$5.00/ft<sup>2</sup> to \$5.75/ft<sup>2</sup> for second floor space.

The Complainant stated a fair rate for the main floor space is \$8.00/ft<sup>2</sup> and \$5.00/ft<sup>2</sup> for the second floor space. The Complainant also provided evidence (C1, pgs. 18-20) that the Respondent used varying capitalization rates (cap rates) for income producing properties in different conditions.

A reduction in the 2010 assessment from \$691,000 to \$362,000 was requested based on a reduction in the main floor lease rate to \$8.00/ft<sup>2</sup> and an upper floor lease rate reduced to \$5.00/ft<sup>2</sup>. A cap rate of 9.5% would be appropriate in view of the condition of the subject, which would result in an assessment of \$362,000.

### **POSITION OF THE RESPONDENT**

The Respondent took the position that the assessment has been properly prepared, using the income approach to value, and explained that the subject property, in average condition for its age, had a vacancy rate of 30% applied both to the main and upper floors, in accordance with the Respondent's normal practice, when a property remained vacant for periods of three years or more.

The Respondent provided a comparable equity rent chart (R1, pg. 26) of seven properties indicating rents on Stony Plain Road between 126 Street and 159 Street. The main floor commercial space ranged from \$12.25/ft<sup>2</sup> and \$14.00/ft<sup>2</sup> whereas the second floor office/apartments ranged from \$6.00/ft<sup>2</sup> to \$8.00/ sq ft. The Complainant also provided an equity assessment chart (R1, pg. 27) using the same properties as on the first chart. The assessments varied from \$99.02/ft<sup>2</sup> to \$130.32/ft<sup>2</sup>.

In both charts the comparable properties were two-storey with main floor retail, similar to the subject. They were mainly smaller than the subject, ranging from 3,499 ft<sup>2</sup> to 10,124 ft<sup>2</sup> and the year built ranged from 1945 to 1973 compared to the subject's at 1959. All were reported to be in average condition, and all had been assessed utilizing an 8.5% cap rate, the same as the subject.

A law brief comprising relevant jurisprudence constituted part of the Respondent's evidence package. The Respondent requested that the 2010 assessment be confirmed.

### **DECISION**

The decision of the Board is to reduce the 2010 assessment of the subject property from \$691,000 to \$362,000.

### **REASONS FOR THE DECISION**

1. The Board was persuaded by Complainant's combination of documentary and testimonial evidence, that the condition of the property was "fair" as opposed to "average". In addition, though neither party had inspected the interior of the property both parties

recognized it had been vacant since 2006. The Board placed considerable weight on the fact the owner had considered the feasibility of restoring the property to a rentable standard, but had determined it would be better to redevelop the property at an appropriate time.

2. Although the Complainant only provided one lease comparable (C1, pg. 26), the Board placed considerable weight on this information as it is located very close to the subject property and was leased effectively from February 15, 2010 for a five year term for \$7.95/ft<sup>2</sup> plus a \$300/month contribution to operating costs. The Board considered the combination of the date and location of this property lease to be very indicative of the lease rate for the subject's main floor.
3. The Board was also persuaded the applicable cap rates for buildings in "average" and "fair" condition is 8.5% and 9.5% respectively. This was applied by the Respondent with respect to the income approach and was also verified by the Complainant (C1, pgs. 18-20).
4. The Board placed less weight on the Respondent's comparable leasing information as they were all reported to be in "average" condition. The combination of photographic evidence and effective ages, indicated to the Board they were not comparable to the subject with the exception of the comparable at 12602 Stony Plain Road.
5. The Board placed little weight on the Respondent's equity argument for the same reasons noted in #4 above.

### **DISSENTING OPINION AND REASONS**

There were no dissenting opinions.

Dated this third day of December, 2010 A.D., at the City of Edmonton, in the Province of Alberta.

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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.*

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CC: Municipal Government Board  
City of Edmonton, Assessment and Taxation Branch  
Alldritt Development Corporation