



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 0098 607/10

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 15, 2010 respecting a complaint for:

Roll Number 4259685	Municipal Address 3110 Calgary Trail NW	Legal Description Plan: 5711KS Block: A / NE 5-52-24-4
Assessed Value \$8,951,500	Assessment Type Annual – New	Assessment Notice for: 2010

Before:

Darryl Trueman, Presiding Officer
Terri Mann, Board Member
Brian Frost, Board Member

Board Officer:

Karin Lauderdale

Persons Appearing: Respondent

Persons Appearing: Complainant

Steven Cook

Tony Mah, Assessor
Tanya Smith, Law Branch

PROCEDURAL MATTERS

The parties indicated no objection to the composition of the Board. The Presiding Officer advised that he and the person appearing on behalf of the Complainant had formerly served at the same time as appointees to the Municipal Government Board. Neither the Presiding Officer nor either of the parties felt that this suggested a conflict or bias for the purpose of this hearing.

The oath was administered with respect to the evidence the witnesses were to provide.

BACKGROUND

The subject property is a 31,500 square foot retail building, on two levels, with internal second floor access. The property has mezzanine space, comprising 2,152 square feet.

The building is located at approximately 31st Avenue fronting Calgary Trail to the east, but accessible only by a service road. The site comprises 146,188 square feet and while a large, paved parking area is provided, the site is not fully developed.

ISSUES

The Complainant initially submitted 17 issues (R-1 p.8-9). The parties agreed that a \$1.00 rental rate ought to be applied to the mezzanine space.

The Complainant presented evidence at the hearing on three issues:

1. Chronic vacancy;
2. Rental rate to be applied to the property, not including mezzanine; and
3. Value of the excess land.

LEGISLATION

The *Municipal Government Act*, R.S.A. 2000, c. M-26;

s.289(2) *Each assessment must reflect*

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

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 is of the position that the assessment is excessive.

The Complainant submits that the City of Edmonton erred in applying a rental rate of \$16.50 per square foot to the main floor area and \$8.00 per square foot to the second floor area. The Complainant relies, as evidence for this proposition, upon a reference to an offer made for the subject property in fall/winter 2009, wherein an offer was made to lease the subject at a net rent of \$11.00 per square foot, including a significant amount of tenant improvements (C-1 p.13). The Complainant referenced access and egress issues and limited parking, and submits that the rate of \$11.00 for the main and second floor area is the correct lease rate to be applied to the subject (C-1 p.13).

The Complainant submitted a May 11, 2010 Lease Listing for the subject (C-1 p.32-33), reflecting asking rates of \$22 per square foot for the main floor, and \$16 for the second floor.

The Complainant advised the Board that the subject has been vacant since November of 2008. The Complainant submitted that a 15% vacancy adjustment should be made, to recognize that the subject has been vacant for almost 2 years (C-1 p.19).

The Complainant provided 20 commercial land sales of properties up to 5 acres, ranging from \$12.99 - \$32.15 per square foot, with an average of \$20.49 per square foot. The average of these comparables was \$20.49, C-1 p.20). The Complainant further submitted 12 equity comparables of excess/oversized lands, which indicated an average of \$17.41 per square foot (R-1 p.21). The Complainant submitted that the sale and equity comparables indicated that the \$29.49 applied by the City of Edmonton to the excess land value was excessive.

Based on the above-referenced adjustments, the Complainant requested a revised assessment of \$5,820,500 (C-1 p.23).

POSITION OF THE RESPONDENT

The Respondent is of the position that the property was assessed fairly and equitably and that the assessment should be confirmed by the Board.

The Respondent advised that, as of the valuation date, the subject was vacant for approximately 8 months, and that this issue was adequately acknowledged in the assessment in that a higher than average vacancy rate was used in the income approach to value, being 5% (R-1 p.7,16).

The Respondent further advised that the lease rates applied to the main floor space and second floor space, being \$16 and \$8 respectively, were well supported by market evidence. The Respondent submitted market rent and equity lease rate comparables with their respective addresses, to support the lease rate applied in the subject's assessment (R-1 p.22). The Respondent also submitted a third party report by Colliers (R-1 p.12-14) which indicated rental rates of \$16 - \$22 for typical big box stores in the City of Edmonton. The Respondent also provided the listing of the subject by Cushman Wakefield (R-1 p.17-20), indicating an asking price of \$22.00 overall, dated October 23, 2008.

The Respondent further advised that the value placed on the excess land was supported by four comparable land sales and four land assessment comparables (R-1 p.25-27).

DECISION

The decision of the Board is to confirm the 2010 assessment of the subject, but apply to it, as agreed upon by the parties, a \$1.00 lease rate to the mezzanine, resulting in a revised assessment of \$8,893,000.00.

REASONS FOR THE DECISION

As regards Vacancy:

The Board accepted the Respondent's submission that the 5% vacancy allowance for the subject adequately accounted for the vacancy suffered over the 8 months preceding the valuation date. In this regard, the Board noted that the 5% rate is higher than the standard 3% rate applied for a property of this nature. The Complainant suggested that the City of Edmonton applies a 15% vacancy rate for properties showing three years of chronic vacancy; however the property was only eight months vacant as of the valuation date.

As regards Lease Rate:

The Complainant's only evidence regarding lease rate was a reference to an aborted Offer to Lease at \$11.00 per square foot for the combined main and second floor of the subject building (C-1 p.13). The Respondent replied to this evidence by providing an undated copy of the subject's listing for lease, which indicated an asking rate of \$22 per square foot overall. The Respondent provided a second listing of the subject, dated May 11, 2010, which indicated an asking rate of \$22.00 per square foot for the main floor and \$16.00 per square foot for the second floor (R-1 p.20).

The Respondent provided 18 market rent comparables (R-1 p.11) and a further 10 assessment lease rate comparables, (R-1 p.22), all of which supported the \$16.50 lease rate applied to the main floor of the subject.

The Complainant argued that the City, in applying \$8 per square foot to the second floor space, was acting in an arbitrary fashion as there was no support for this rate. The Board acknowledges that the blended rate for main and second floor space is \$12.50 per square foot, which is reasonably within the range of lease rates for similar properties in the neighbourhood and in fact, supported by the aborted offer.

As Regards excess Land Value:

The Complainant provided 20 comparable land sales, four of which occurred in the 18 months prior to the valuation date. The total overall average was \$20.49 per square foot, the average of the four most recent sales was \$20.13. The sales were time adjusted but not adjusted for size, location or corner influence. No equity comparables were provided.

The Respondent provided four land sales and four equity comparables, all of which supported the \$30.00 per square foot factor applied to the excess land.

The Board did not find that the Complainant's evidence was sufficiently persuasive to cause it to disturb the assessment, with the exception of the revision to the assessment lease rate on the mezzanine space, to which both parties agreed.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

Dated this 10th day of December, 2010, at the City of Edmonton, in the Province of Alberta.

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: Municipal Government Board
552861 Alberta Ltd.