



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 622/11

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 January 16, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2874006	1 Westmount Shopping Centre NW	Plan: 5079HW Block: 20	\$81,666,500	Annual New	2011

Before:

Tom Robert, Presiding Officer
Brian Frost, Board Member
Taras Luciw, Board Member

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

Doug Hamilton, Altus Group
John Trelford, Altus Group

Persons Appearing on behalf of Respondent:

Frank Wong, Assessor, City of Edmonton
Tanya Smith, Law Branch, City of Edmonton

PROCEDURAL MATTERS

The parties were asked if they had any objection to the composition of the board, and indicated that they did not. At the request of the Respondent, the witnesses were sworn.

BACKGROUND

The subject property is a shopping centre located at 1 Westmount Shopping Centre in the Westmount neighborhood of northwest Edmonton. The property is approximately 486,000 square feet on a lot of approximately 1,315,000 square feet. The subject property's 2011 new assessment was \$81,666,500. The City later issued a revised assessment of the property in the amount of \$79,929,500.

PRELIMINARY MATTERS

The Respondent raised an issue with the inclusion of a document in the Complainant's evidence which had been marked "without prejudice." The Respondent indicated that this objection was entered solely to have it indicated on the record, and that they were not requesting that the document be excluded from evidence.

The Complainant, in reply, indicated that the document was a pro-forma for a proposed revised assessment of the property, and that in fact formed the basis of a revised assessment applied to the subject property.

The Respondent also raised an issue with regard to the exemption set on the subject property. The Respondent indicated that the exemption had been inadvertently set to 100%, when it should have been set to 1.178%. They noted that they had discovered this error after the matter had been appealed, and initially opted to deal with it by a recommendation in the merit hearing. The Respondent then indicated that because the matter had been scheduled to be heard in the following taxation year, the City had opted to issue a revised assessment for the subject property during the 2011 taxation year including both a revised assessment and the new exemption.

The Complainant indicated that they had no objection to the 1.178% exemption rate.

ISSUE(S)

The Complaint form indicated multiple concerns, but only the following issue was addressed in the hearing, that the Capitalization Rate for the property was too low.

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

The Complainant submitted written evidence in the form of an appeal brief entered as exhibit C-1, containing 59 pages, and a rebuttal entered as exhibit C-2, containing 26 pages.

The Complainant stated the only issue is the capitalization rate applied by the Respondent. While the rate used was 7.50% (C-1, page 16) it was argued that the appropriate rate should be 8.00% as shown on the value pro forma (C-1, page 17).

To support this, the Complainant provided six comparable properties (C-1, page 20), that included three shopping centres and three power centres. Five properties were assessed with capitalization rates of 8.00% with only Kingsway Garden Mall assessed lower, at 7.75%. Since the capitalization rate is, in part, a reflection of risk, it is not equitable that newer and more recently upgraded properties would present a higher risk.

The Complainant described the Northgate Centre as being most comparable as it was closest in age, size, and tenancies and was assessed at 8.00%.

Based on the foregoing, the Complainant requested a reduction of the 2011 assessment to \$74,540,000.

POSITION OF THE RESPONDENT

It is the position of the Respondent that the assessment of \$79,929,500, as reduced from the original assessment of \$81,666,500, is both fair and equitable.

The Respondent confirmed that the income approach to value was used to determine the market value (assessment) for the property, and income is based on market rents as evidenced by the market on July 1, 2010. Cap Rates similarly were derived from market evidence to that effect.

The Respondent provided definitions for various forms of shopping centres and in doing so confirmed that the subject is a Community Shopping Centre as are Meadowlark and Bonnie Doon Shopping Centres, Millwoods Town Centre and Northgate Centre. The Respondent also submitted that the comparables presented by the Complainant, namely North Town Centre, Future Shop, Christy's Corner and Crossroads, are Power Centres while Kingsway Mall is a Regional Shopping Centre. As such the Complainant's comparables, with the exception of Northgate Centre, were not comparable to the subject Westmount Shopping Centre.

Capitalization Rates as utilized in the derivation of assessed value for each of the Respondent's Community Shopping Centres, with the exception of Northgate's 8.00%, were all at 7.50%.

Size of the newer Home Depot store in the subject was confirmed by site visit resulting in a correction of overall Gross Leasable Area (GLA) from the original 486,062 sq. ft. to 488,770 sq. ft. and this, coupled with a reduction in market rent for the Home Depot space resulted in a \$79,929,500 assessment, which the Respondent asked that the Board confirm.

DECISION

It is the decision of the Board to reduce the 2011 assessment from \$79,929,500 to \$74,958,000. At the recommendation of the Respondent, and with the consent of the Complainant, the exemption for the subject property is reduced to 1.178%.

REASONS FOR THE DECISION

The Board has determined that the Cap Rate for the subject property is 8.00%.

The single issue before the Board is whether the Cap Rate applied is equitable with similar centres in Edmonton.

The Complainant's evidence indicates that the best comparables are Northgate Centre, similar in size, tenancy and somewhat newer than the subject. The Cap Rate applied in arriving at this value is 8.00%. The comparable at North Town Centre is similar in age, somewhat smaller and is also valued using an 8.00% Cap Rate. The Board accepts the Complainant's argument regarding the Cap Rate of 7.75% in arriving at the value for Kingsway Garden Mall as being superior to the subject in terms of age, location and tenancy.

The Board was less persuaded by the Respondent's evidence that comparables at Meadowlark Shopping Centre and Millwoods Town Centre were similar to the subject. The Respondent did not provide sufficient evidence to the Board in regard to the effective age or tenancy of these comparables. Therefore the Board reduced the 2011 assessment from \$79,929,500 to \$74,958,000.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 16th day of January, 2012, 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: FIRST CAPITAL HOLDINGS (ALB) CORPORATION