



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 676/11

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 23, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9940110	10740 82 Avenue NW	Plan: 9622351 Block: 132 Lot: 1C	\$1,695,500	Annual New	2011

Before:

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

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

John Trelford, Altus Group

Persons Appearing on behalf of Respondent:

John Ball, Assessor, City of Edmonton

PRELIMINARY AND PROCEEDURAL MATTERS

[1] The parties indicated that they had no objection to the composition of the Board. The Board members indicated that they had no bias with regard to the subject property.

[2] During the hearing the parties agreed that the only issue before the Board was the rental rate of the restaurant which was reflected in the Income Statement.

BACKGROUND

[3] The subject property is a retail plaza property constructed in 1999 located at 10740 - 82 Avenue NW in the Garneau neighbourhood of south Edmonton. It consists of approximately 4,567 square feet of retail space and 1,261 square feet of fast food restaurant space. The property was assessed on the income capitalization approach, and the 2011 assessment is \$1,695,500.

ISSUE(S)

[4] The only issue is:

- a. What is the market value of the subject property?

LEGISLATION

[5] The *Municipal Government Act*, RSA 2000, c M-26 states:

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

[6] The Complainant filed this complaint on the basis that the subject property has been assessed in excess of its market value. In support of this position, the Complainant provided a chart of seven lease rate comparables (Exhibit C-1, page 16). The comparables were all fast food restaurants in average condition in various locations throughout the City of Edmonton. They ranged in size from 1,000 to 2,452 sq. ft. with the subject being 1,261 sq. ft. The comparables ranged in age from 1984 to 2004 and the leases became effective between June 2009 and November 2010. The lease rates ranged from \$15.50/ sq ft. to \$28.00/ sq ft with an average of \$22.36/ sq ft and a median of \$23.00/ sq ft.

[7] In support of this information the Complainant also provided a chart of five assessment comparables of fast food restaurants, again all in average condition and in various locations

throughout the city. The comparables ranged in size from 1,215 sq ft to 1,990 sq ft and in age from 1978 to 1999. All five properties had been assessed at \$23.00/ sq ft.

[8] The Complainant requested the 2011 assessment of \$1,695,500 be reduced to \$1,593,000 based on a reduction of the restaurant lease rate from \$30.00/ sq ft to \$23.00/ sq ft as noted above.

POSITION OF THE RESPONDENT

[9] The Respondent advised the Board regarding the mass appraisal process that the City of Edmonton utilizes for their neighborhood shopping centre inventory. The Respondent utilized the income approach method to support the 2011 assessment of the subject property.

[10] The Respondent provided ten fast food restaurant outlet leases which are all on free standing franchise restaurant sites ranging from \$28.50 per sq ft to \$46.00 per sq ft (Exhibit R-1, page 26).

[11] In addition the Respondent provided seven leases in close proximity to the subject property and stated they were older properties and were all situated to the west of 105 Street but all on White Avenue. Under questioning the Respondent informed the Board that detailed lease information could not be given out as the information was confidential under FOIP guidelines. The Respondent stated that the lease rates on Whyte Avenue had continually been on an upward trend. The Respondent also stated that the lease rates provided are good comparables as they are in close proximity to the subject property and they are all on White Avenue. The Respondent stated that the location of the subject property on White Avenue is superior to the Complainant's comparables as White Avenue has a much longer business opportunity than suburban locations, as it has extended business hours.

[12] Under legal argument the Respondent advised the Board of a decision of the ARB from the City of Calgary (Exhibit R-1, page 32 -41) which stated that *Lease renewals, with no exposure to the market, and lease agreements signed well in advance of the commencement date may or may not reflect market rent for that property.*

[13] The Respondent requested that the Board confirm the 2011 assessment at \$1,695,500.

DECISION

[14] The decision of the Board is to confirm the 2011 assessment at \$1,695,500 as being fair and reasonable.

REASONS FOR THE DECISION

[15] The only issue before the Board is the rental rate of the restaurant of the subject property, which is reflected in the market value of the subject property. As such, the Board was not persuaded by the Complainant's comparables. None of the Complainant's market lease rate comparables were on Whyte Avenue, as is the subject property. In addition, none of the Complainant's comparable lease assessments were on Whyte Avenue, like the subject property is.

[16] The Complainant's comparables were not in close proximity to the subject property.

[17] The Board was not persuaded by the Respondent's fast food lease rates and put little weight on the Respondent's lease rate comparables. There was little information provided to the Board so that the comparability was most difficult.

[18] In addition, the lease information provided by the Respondent to the Board provided, once again, little information regarding the type of tenant, making the comparability most difficult.

[19] Jurisprudence has established the onus of showing an assessment is incorrect rests with the Complainant. The Board is not satisfied that the Complainant provided sufficient and compelling evidence to enable the Board to form an opinion as to the incorrectness of the assessment.

DISSENTING OPINION AND REASONS

[20] There was no dissenting opinion.

Dated this 31st day of January, 2012, at the City of Edmonton, in the Province of Alberta.

Robert Mowbrey, 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: MARCO INVESTMENTS (ALBERTA) LTD