



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 680/11

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 December 14, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9947942	10827 82 Avenue NW	Plan: 4400R Block: 171 Lot: 7-12	\$4,887,500	Annual New	2011

Before:

Dean Sanduga, Presiding Officer
Petra Hagemann, Board Member
Taras Luciw, Board Member

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

Chris Rumsey, Assessor, City of Edmonton
Ryan Heit, Assessor, City of Edmonton

PROCEDURAL MATTERS

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 matter before them.

BACKGROUND

The subject property is a retail bank located at municipal address 10827 82 Avenue NW in the Queen Alexandra neighbourhood in the City of Edmonton. The property is a single building comprising 9,262 square feet of main floor space on a site of 21,822 square feet. The property was assessed on the income approach, and the 2011 assessment is \$4,887,500.

ISSUE(S)

There were numerous issues listed in exhibit C-1, pg 3 challenging the correctness of the assessment of the subject, however only the following issues were addressed during the hearing:

1. Is the rental rate too high?
2. Is the capitalization rate too low?
3. Is the vacancy shortfall too low?
4. Should roll #9947943 adjacent to the subject property be assessed separately and removed from the 2011 assessment.

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 containing 45 pages that was entered as exhibit C-1.

The Complainant provided 12 bank market lease rate (rent) comparables, ranging from \$15 to \$36 per square foot (C-1, page 17). The average rents were \$27.25 and the median was \$27.50 per square foot compared to the subject's rental assessment of \$40.00 per square foot. An additional lease rate comparable in the form of an Account Detail Report was provided on a bank

located at 8008-104 Street whose assessment was based on \$27.00 per square foot (C-1, page 20 and 21).

The second issue, the capitalization rate, was addressed by the Complainant by providing 33 capitalization rate equity comparisons, ten of which are bank locations (C-1, page 19). One of the properties, located at 7915-104 Street, contained a dated lease and the Complainant requested the Board not to consider this comparable. The capitalization rates ranged from 7.75% to 9.00%. The Complainant requested an increase in the capitalization from 7.00% to 8.00%.

A third issue, the vacancy shortfall being too low, was raised by the Complainant. During questioning by the Respondent, the Complainant explained that the non-recovery of taxes on a vacant portion of the property is an expense to the owner and the vacancy shortfall should be increased.

The fourth issue, the parking requirement for the subject, was raised by the Complainant who stated that the adjoining lot #7, (roll # 9947943), used for parking, is included in the assessment of the subject property and its assessment in the amount of \$495,000 should be deducted from the assessment of the subject property. The tenant requires 3.4 parking spaces per 100 m² of floor area as per city bylaw.

A Market Value Proforma was included (C-1, page 13) wherein the main floor rental income was reduced to \$27.00 per square foot, the cap rate was changed to 8% and \$495,000 was deducted for roll #9947943 (see fourth issue above) resulting in a new value of \$2,417,031. The Complainant requested a reduction of the 2011 assessment to \$2,417,000.

POSITION OF THE RESPONDENT

The Respondent presented written evidence (R-1) and argument for the Board's review and consideration.

An Income Detail Report was submitted (R-1, page 23) wherein main floor rent of \$40 per square foot and a capitalization rate of 7.00% were shown as the basis for the current assessment of \$4,887,500.

The Respondent provided Comparable Equity Rents and Capitalization Rates for Retail Properties for five comparable properties (R-1, page 29). All five properties are banks, are newer and reflect the \$40.00 per square foot typical rent.

The Respondent also provided Comparable Equity Rents and Capitalization Rates for Retail Properties for five additional comparable properties (R-1, page 30). All five properties are banks and are located on 82 Avenue as is the subject. Four of the properties were shown to have capitalization rates of 7.00%, like the subject, and one has a cap rate of 7.50%. All the properties are assessed at \$30.00 per square foot. The Respondent stated that all similar properties built after 1995 are assessed at \$40.00 per square foot whereas older properties are assessed at \$30.00 per square foot.

The Respondent included actual bank rents for four additional properties (R-1, page 36). All represent newer leases with effective dates in 2009 and expiry dates in 2019. Their rents ranged from \$38.00 to \$42.00 per square foot and averaged \$40.50 per square foot.

The Respondent referenced (R-1, page 28) the Complainants comparable at 8008-104 Street (C-1, page 20 and 21) and noted that the property is incorrectly assessed at \$27.00 per square foot. Upon review, it was found that it should have been \$30.00 per square foot.

During questioning by the Complainant, the Respondent was asked whether the subject's legal description includes lot 7 (referenced above). The Respondent stated that it only includes lots 8 to 12 whereas lot 7 is under a separate tax roll number.

The rental rates and the capitalization rates presented support the subject's current assessment and the Respondent requested that the 2011 assessment be confirmed at \$4,887,500.

DECISION

The decision of the Board is to confirm the 2011 assessment in the amount of \$4,887,500.

REASONS FOR THE DECISION

Issue #1 & 2, Rental and assessment rates

The Board was persuaded by the Respondent's Actual Bank Rents chart (R-1, page 36) indicating an actual rental range from \$38.00 per square foot to \$42.00 per square foot, with an average of \$40.50 per square foot, supporting the typical rent of \$40.00 per square foot. The Board accepts the Respondent's submission that all banks built after 1995 are assessed at a rate of \$40.00 per square foot whereas banks built prior to 1995 receive a typical rental rate assessment of \$30.00 per square foot. The Respondent further provided the Board with five Equity Rent comparables (R-1, page 29). All comparables were assessed at \$40.00 per square foot reflecting the typical rental rate of \$40.00. This indicates the assessment of the subject is fair and equitable.

The Board reviewed the twelve market lease rate assessment comparables provided by the Complainant (C-1, page 17). One bank built in 1995 was assessed at \$40.00 per square foot while most of the remaining older comparables were assessed at the lower rate of \$30.00 per square foot. The Board noted that these assessment rates reflect the Respondent's explanation that older banks are assessed at \$30.00 and newer than 1995 banks are assessed at \$40.00 per square and thus support the assessment of the subject.

Issue #3, Capitalization Rate

The Board examined the Complainant's Capitalization Rate Equity comparison (C-1, page 19) particularly noting the comparable bank properties assessed at rates ranging from 7.75% to 9.0%.

The Board placed more weight on comparables provided by the Respondent (R-1, page 30) indicating a cap rate of 7%. These are all located on 82 Avenue in close proximity to the subject property.

Issue #4, Vacancy shortfall

The Board heard the argument relative to the vacancy shortfall issue and noted that the dollar amount difference in the shortfall between the Respondent's figure of \$2,779 and the Complainant's calculation of \$4,168 is \$1,389. The Board placed greater weight on the Respondent's response in R-1, page 27 wherein the rent is described as being triple net and therefore the tenant is responsible for the taxes of their unit. The subject property is fully occupied by a single tenant making the vacancy shortfall less of an issue.

Issue #5, Parking Lot

The Board was persuaded that the subject property does not include lot 7 referenced above. The subject is comprised of 5 equally sized lots (#8-#12 inclusive) with a total area of 21,822 square feet or 4,364 square feet per lot. Should lot 7 (at 4,365 square feet) be included in the subject, the size of the subject would in fact be 26,187 square feet and not 21,822 as stated on the income detail report (R-1, pg 23).

After reconvening the following day, the Board accepted the Respondent's position with regard to the parking requirements for the subject property. The Respondent advised the Board that according to the parking requirement bylaw 1.1 parking spaces per 100m² of floor area or 10 stalls are needed. The subject property includes 24 stalls which is in excess of the required amount and therefore lot # 7 is not needed to fulfill the parking requirements for the subject.

DISSENTING OPINION AND REASONS

None

Dated this 4th day of January, 2012, at the City of Edmonton, in the Province of Alberta.

Dean Sanduga, 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: LAURGIN HOLDINGS LTD.