



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
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NOTICE OF DECISION NO. 0098 712/11

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 25, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3186756	16741 91 Street NW	Plan: 8722124 Block: 10 Lot: 2	\$2,772,000	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
Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

Ning Zheng, Assessor, City of Edmonton

PRELIMINARY MATTERS

[1] Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

BACKGROUND

[2] The subject property is a 17,015 square foot commercial retail plaza that also included a free-standing bank building located at 16741 - 91 Street NW. The property is zoned CNC neighborhood commercial and the bank building extends to an area of 3,104 sq ft. The subject property is assessed at \$2,772,000.

ISSUE(S)

[3] The issues are:

- a. What is the market value of the subject property?
- b. What is the correct rental rate for the bank building?

LEGISLATION

[4] The *Municipal Government Act, RSA 2000, c M-26* reads:

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

[5] The Complainant filed this complaint on the basis that the subject property assessment of \$2,772,000 is in excess of its market value. In support of this position, the Complainant stated in argument the only issue was the rental rate applied to the restaurant premises. He indicated the application to use the bank as a restaurant building was being processed prior to December 31, 2010 as the bank had indicated they would not be renewing the lease. The Complainant stated the ensuing lease agreement was the best indicator of the rental value of the property. To this end an appraisal brief was provided that included the rent roll and a survey of restaurant lease comparables in chart form, in various locations throughout the city. The leases all commenced between December 2009 and November 2010 and related to restaurants between 1,545 sq ft and 5,552 sq ft as opposed to the subject which is 3,104 sq ft. The triple net lease rates ranged from \$19.00/ sq ft to \$24.00/ sq ft with an average of \$20.87/ sq ft and a median of \$21.00/ sq ft,

whereas the subject is assessed at \$29.25/ sq ft. Based on this survey the Complainant indicated a rate of \$18.00/ sq ft was applicable to the subject space which is less than the assessment.

[6] Based on a reduction in the rental rate to the bank space the Complainant requested the Board to reduce the 2011 assessment of \$2,772,000 to \$2,364,000.

POSITION OF THE RESPONDENT

[7] The Respondent presented the Board with a 69 page brief that included the mass appraisal process that the City of Edmonton utilizes for their office building (bank) inventory. (Exhibit R-1-69 pages). The assessment methodology used by the Respondent is the income capitalization approach.

[8] The Respondent presented four bank market lease comparables to the Board. (Exhibit R-1 page 25). The four bank market lease comparables were similar to the subject property in terms of size and location. The lease comparables had an average lease rate of \$33.00 per square foot, which supports the assessment.

[9] Under argument, the Respondent advised the Board that the Complainant's lease comparables were all for restaurant properties and none were for bank properties.

[10] The Respondent advised the Board that MGA 289 (2) states,
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,....

[11] The Respondent stated that the 2011 Assessment of the subject property should be based on the 2010 lease information; the space that was occupied by the Bank should be assessed at the Bank rate, not the rate that is being occupied as a Restaurant FIVE months later.

[12] In summary, the Respondent asked the Board to confirm the 2011 assessment of \$2,772,000.

DECISION

[13] The decision of the Board is to confirm the 2011 assessment of \$2,772,000 as being fair and equitable.

REASONS FOR THE DECISION

[14] The Board was bound by the legislation that states the valuation date of the assessment is July 1st of the preceding and the condition date of December 31st.

[15] Section 289(2) of the MGA reads as follows:

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.

[16] The Board notes the subject property was assessed as a bank on the valuation date and the subject property was still a bank on December 31st. The Board recognizes the fact that the bank may have vacated the premises in December 2010, however, this does not negate the fact regarding the condition of the subject on December 31st. No evidence was provided as to when the new lease was actually signed but the Board recognizes the Respondent would have had no evidence that the tenant would not be renewing as at December 31, 2010. As a result, the Board is of the opinion the bank space should be assessed as bank space as at December 31, 2010.

[17] The Board was persuaded by the Respondent's four bank market lease comparables. The comparables were similar in terms of size, location and rental rate. The average of the bank market comparables was \$33.00 per square foot, which supports the assessment.

[18] The Board put little weight on the Complainant's market lease rate comparables as the lease comparables were all on restaurants.

[19] The Board notes that the subject property could be assessed differently in the following year as the subject property was being transformed from a bank to a restaurant.

DISSENTING OPINION AND REASONS

[20] There was no dissenting opinion.

Dated this 6th day of February, 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: 964977 ALBERTA LTD