



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 725/11

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 31, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
4132064	10165 - 109 Street NW	Plan: 9020932 Unit: 516	\$795,500	Annual New	2011

Before:

Tom Robert, Presiding Officer
Judy Shewchuk, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Danica Zhou
Walid Melhem

Persons Appearing on behalf of Respondent:

John Ball

PRELIMINARY MATTERS

The Respondent raised the issue that the Complainant did not specify on the complaint that the income approach was to be argued.

The Complainant pointed out that on exhibit C-1 (page 3), items 3, 4 and 9 specify that the market value is the issue which encompasses all three approaches to value.

DECISION ON PRELIMINARY MATTER

The Board is of the view that all three approaches to value are in question in determining market value and have been properly exchanged as set out in the regulation.

BACKGROUND

The subject property is a portion of a complex consisting of a three tower condominium property. The total complex consists of residential units, parking and two floors of office and retail space.

The subject is located on the main floor and is currently a restaurant. The subject (#516) has a gross square footage of 2,541 square feet and a net leasable size of 2,561 square feet. The land area apportioned to the subject is 547 square feet.

ISSUE(S)

What is the market value of the subject property as of July 1, 2010?

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 argued that the subject property should be valued via the income approach to value. The Complainant put forward that this type of property is bought and sold on its potential income. Further, the Complainant advised that the best indicator of value would be derived from lease rates within the area of the subject.

The Complainant put forward 19 lease rate comparables (exhibit C-1, page 22) all within the area of the subject property, that have lease start dates ranging from January, 2008 to April, 2010. The indicated average of the comparables was \$14.51 per square foot with a median of \$17.00 per square foot. The Complainant is requesting \$16.00 per square foot be applied.

The Complainant further presented 19 assessment lease rate comparables (exhibit C-1, page 24) within the same area as the subject indicating a median of \$15.00 per square foot.

It was noted by the Complainant that the existing lease on the subject is \$16.96 per square foot. This lease started on 1/12/1995 and expires on 5/1/2013, suggesting that this is a dated lease which does not represent market lease rates as of July, 2010.

The Complainant presented a proforma (exhibit C-1, pages 12 – 13) based on the requested lease rate of \$16.00 per square foot, applying all other factors used by the City on other similar income properties to arrive at a value of \$448,500 (applying an 8.50% capitalization rate, C-1, page 12).

The Complainant further provided a proforma based on the actual lease rate of \$16.96 per square foot, applying all other factors similar to other retail space (income property) and a 8.50% capitalization rate, indicating a value of \$467,000 (C-1, page 13).

The Complainant put forward that if the direct sales comparison approach to value is applied, then the time adjusted sale of the subject property is the best indicator of market value (C-1, page 20). The subject property transferred for a price of \$14,000,000 on June 19, 2007. The time adjusted value is \$15,043,000 or \$230.14 per square foot. The transfer also included 256 underground parking stalls. According to the property tax summary, each parking stall is assessed at \$6,500. The sale price of \$15,043,000 is reduced to reflect these parking stalls, which indicate an adjusted value of \$13,379,000 or \$204.68 per square foot, which, when applied to the subject square footage of 2,561 square feet indicates a value for the subject of \$524,185.

The requested value is \$448,500 via the income approach supported by \$524,185 by the direct sales comparison approach.

The Complainant argues that the three direct sales comparables provided by the City (R-1, page 27) require unsupported adjustments for finish and location. Further, the Complainant argues that the sale at 10724 -82 Avenue is motivated as the existing tenant was the purchaser. The sale at 11025 Jasper Avenue is disputed as non arms length as the vendor and the purchaser have the same address.

POSITION OF THE RESPONDENT

The Respondent argues that the direct sales comparison approach is the appropriate method in arriving at a market value for the subject property. The Respondent further advises that all retail condominium units are valued by the same direct sales comparison approach throughout the City.

The Respondent put forward that the size of the subject is taken from the survey plan of the complex and reflects the size documented under legal survey.

The Respondent provided three condominium sales in support of the market value assessment of \$300.56 per square foot for the subject (R-1, page 27). These values range from \$363.00 to \$446.81 per square foot after adjustments for time, finish and location (i.e 2nd floor).

The Respondent in support of the sales comparables advised that sale #1 at 10059-118 Street is inferior in terms of location and has a shell value alone of \$304.00 per square foot (finish added at \$60).

The Respondent advises that the subject property is a unique property in a busy location, and is correctly valued at \$300.56 per square foot

DECISION

The decision of the Board is to confirm the 2011 assessment of \$795,500.

REASONS FOR THE DECISION

The Board was not persuaded by the Complainant's income approach to value. The 19 lease rate comparables did not provide sufficient evidence as to retail space versus office space, location or space type.

The Complainant chose to use an 8.50% capitalization rate in arriving at value. No supporting evidence for the capitalization rate was provided. The Respondent argued that 7.50% was the appropriate rate to be used. No support for the Respondent's rate was provided. The sales transfer document indicated a 7.22% capitalization rate.

Based on these factors, the Board put little weight to the value derived by the Complainant using the income approach to value.

In regard to the argument on direct sales comparables, the Board was not persuaded by the calculation presented by the Complainant in arriving at the \$204.68 per square foot from the sale of the subject. The Board was not convinced that the adjusted sale price of \$13,379,900 divided by the total square footage of 65,364 square feet produces market value of \$204.68 per square foot for all spaces within the sale.

The sale includes second floor office space as well as main floor retail. The Board is of the view that these areas have different values and should be apportioned based on a value per main floor retail and second floor office space.

The Board finds that since it was not persuaded by the Complainant to reduce the assessment, it must confirm it at \$795,500.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

Dated this 7th day of February , 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: Capital Centre Nominee Company