



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 740/11

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 February 6, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9945146	13520 VICTORIA TRAIL NW	Plan: 9721947 Block: 150 Lot: 2C	\$4,060,500	Annual New	2011

Before:

James Fleming, Presiding Officer
James Wall, Board Member
Petra Hagemann, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Chris Buchanan
Jordan Nichol

Persons Appearing on behalf of Respondent:

Alana Hempel
John Ball

PROCEDURAL MATTERS

The Board Members indicated that they had no bias with regard to this file. The parties indicated that they had no objection to the composition of the CARB.

PRELIMINARY MATTERS

It should be noted that due to considerable delays experienced as a result of the City's preliminary challenge of the validity of Altus CARB complaints, including filing of a leave to appeal the CARB decision of the preliminary hearing in the Court of Queen's Bench, the Assessment Review Board (ARB) administration determined it would be unable to meet the deadlines set out in s. 468 (1) of the Municipal Government Act (MGA), and s. 53 (b) of Matters Relating to Assessment Complaints. Accordingly, the ARB administration requested and obtained a Ministerial extension to hear the affected roll numbers, including the subject property in 2012 under the authority of s. 605(2) of the MGA.

BACKGROUND

The subject property represents a five tenant part of Belmont Town Centre encompassing a total of 13,680 square feet. It is a neighbourhood shopping centre located on Victoria Trail south of 137th Avenue. This shopping centre was built from 1997 to 2006 and has a land use code of DC2 (621). The subject is assessed using the income approach.

ISSUE(S)

There are nine issues outlined in the Complainant's brief (C-1, pg 3), however only 1, 3,4,5,8 and 9 were determined to apply to this case.

Are the rental rates of the Commercial Retail Unit (CRU) space (5,001 -10,000 sq ft), the CRU restaurants and the bank pad excessive?

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 presented the CARB with a 41 page brief (C-1) outlining evidence in support of a requested reduction in the 2011 assessment from \$4,060,500 to \$3,047,500. The contention is that the rent for the bank pad is excessive and should be reduced to \$28.00, the rental rate for the restaurant be reduced to \$23.00/sq ft and the CRU (5,001-10,000 sq ft) rate should be reduced to \$12.50/sq ft, (C-1, pg 13).

To support a reduction in the assessment of the Bank of Nova Scotia from \$40.00/sq ft to \$28.00/sq ft, the Complainant presented the CARB with the following evidence:

- The rent roll for the Bank of Nova Scotia as of May 2010 shows \$36.00/sq ft which is lower than the assessment of \$40.00/sq ft.
- Nine market lease rate comparables (C-1, pg 19) throughout the City were presented to the CARB for comparison. The start dates for these leases ranged from March 2009 to Nov. 2010. These properties were similar to the subject bank in age and size. The lease rates ranged from \$21.00/sq ft to \$35.00/sq ft with a median of \$28.00/sq ft.
- The Complainant further provided assessments for these same lease rate comparables (C-1, pg 19). These assessments range from \$21.00/sq ft to \$40.00/sq ft with a median of \$30.00/sq ft.

The Complainant provided this evidence to support a reduction in the bank lease rate from \$40.00/sq ft to \$28.00/sq ft.

To support a reduction in the assessment of the Restaurant space from \$30.00/sq ft to \$23.00/sq ft, the Complainant presented the CARB with the following evidence:

- The rent roll as of May 2010 for the restaurant Wok “N” Go located in Belmont Town Centre shows \$21.00/sq ft. The start date of this lease is Jan 2005.
- Seven current market leases of restaurants (C-1, pg 19) located throughout the City of Edmonton were provided as comparables. These comparables have lease start dates ranging from Feb. 2008 to June 2010 and have a median rent of \$23.00/sq ft.
- The Complainant further submitted 38 comparable restaurants throughout the City of Edmonton sorted by age of construction (C-1, pg 21). The median rents for restaurants built between 2005 and 2010 is \$32.50/sq ft, the median rental rate for restaurants built between 2000 and 2005 is \$24.00/sq ft and the median for restaurants built between 1990 and 1999 is \$25.25/sq ft.

The Complainant submitted this evidence to persuade the CARB that the assessment for the Restaurant space is excessive at \$30.00/sq ft and should be reduced to \$23.00/sq ft

To support a reduction in the assessment of the CRU space to \$12.50/sq ft, the Complainant submitted the following evidence:

- Four CRU equity comparables (C-1, pg 20) located in northeast Edmonton illustrate assessments ranging from \$11.25/sq ft to \$13.25/sq ft with a median of \$11.88/sq ft.. The Complainant submitted this evidence to illustrate that the CRU space should be reduced from \$18.00/sq ft to \$12.50/sq ft.

The Complainant suggests this evidence supports a reduction for the subject property from \$4,060,500 to \$3,047,500.

POSITION OF THE RESPONDENT

The Respondent provided the CARB with a 119 page brief (R-1) which contained information on the methodology used in mass appraisal, maps and photos of the subject property and details of the 2011 assessment (Neighbourhood Shopping Centre Valuation Summary, pg 21).

The evidence included actual rental information based on information provided by the owner of the subject property (R-1, pg 27-28). This information shows sizes, lease dates and lease rates for the subject property from 2009 and 2011. The Respondent contends that escalation in the subject property's lease rates is supported by these reports.

The escalation of lease rates for all types of rental space in the subject property is specifically supported not only by the market surveys but by rate escalations shown on R-1, pg 29. The Respondent divulged that in accordance with Freedom of Information and Protection of Privacy (FOIPP), further details such as location, sizes of the lease properties shown could not be provided.

The Respondent (R-1, pg 29) submits that three banks constructed in 2009 in the Ellerslie Road area of the City are currently rented at \$42.00/sq ft and \$40.00/sq ft. Two other banks in the same Ellerslie Road area were leased in 2006 and 2008 at \$33.50/sq ft and \$35.00/sq ft respectively.

The Respondent suggested that MGB Order 054/10 (R-1, pg 47) is supportive of the fee simple basis of assessment applied to the subject property.

The Respondent brought to the CARB's attention that the Complainant was requesting a \$30.00/sq ft rate for the subject bank pad which was \$6.00/sq ft less than the actual lease entered into in Nov 2008.

The Respondent requested the CARB to confirm the 2011 assessment at \$4,060,500.

DECISION

The decision of the CARB is to allow the appeal in part and reduce the 2011 assessment from \$4,060,500 to \$3,530,000.

REASONS FOR THE DECISION

Although the Complainant identified 6 of the 9 issues identified on page 3 of C1, during the hearing, the only items in dispute were the assessed rental rates for the Bank/Bank Pads, the CRU Restaurants, and the CRU's from 5001 to 10,000 sq. ft. in size and the assessed rate for the Restaurant Pad on the site which is developed with a Tim Horton's Restaurant.

The rates discussed in the complaint are as follows;

*all Rates are per sq. ft.	Assessed Rate	Requested Rate	Actual Rate	Assessment Comparable Rates
Bank Pad	\$40.00	\$28.00	\$36.00	\$27.00 - \$40.00
CRU - Restaurants	\$30.00	\$23.00	\$21.00	
CRU (5,001 – 10,000)	\$18.00	\$12.50	\$22.00 - \$25.00	\$12.50

The CARB considered all of the evidence and argument.

Banks/Bank Pads Rate

To support the requested rate for the Bank Pad, the Complainant provided nine lease comparables (C-1, pg 19) which, with a median of \$28.00, supported the requested rate. The Complainant also provided assessed rates for 8 of the 9 leases. Five of these assessed rates were at \$30.00/ sq ft, which provided support for a rate of \$30.00/ sq ft. Finally, the Complainant provided an analysis of Bank/Bank Pad comparable lease rates sorted by age of construction (C-1, pg 22), which supported a rate of \$30.00/sq ft for Banks built prior to 2005 (the subject was constructed in the late nineties).

The Respondent provided information that six new banks constructed in the Ellerslie area in south east Edmonton between 2006 and 2009 (R-1, pg 29). They noted that 3 of these banks were built in 2009 and were leased at rates between \$40.00 and \$42.00/ sq ft. They felt this adequately supported an assessed rate of \$40.00 for the subject property Bank.

The CARB noted that while the Complainant's lease comparables supported a rent of \$28.00/sq ft (C-1 pg 19), a more detailed analysis by age, and the information on assessed rates for the lease comparables both supported a rate of \$30.00/sq ft.

The CARB also noted that the Respondent's information on Banks was anecdotal, unsubstantiated argument from a very different part of the City, and additional information from the City was lacking to support either the level of rent or the comparability of the location.

The CARB recognized the calculations performed by the Respondent at the hearing to show the average rates for lease comparables based on lease start date (\$36.00 in 2008, \$40.00 in 2009, and \$53.00 in 2010), but the CARB concluded that the evidence from the Complainant relating the age of the property was more compelling, particularly because it was supported by the assessed rate on page 19 of C-1.

Accordingly, the CARB found that the Complainant had the best evidence on rates for the Bank/Bank Pad, which supported a rate of \$30.00/sq ft based on the age comparable analysis and the assessed rate for other Banks in the City.

Restaurant CRU's:

With respect to the Restaurant CRU request, the pattern of evidence was very similar to the information provide for the Banks. The Complainant provided 7 lease comparables of a similar age to the subject and with lease starts close to the valuation date(C-1 pg 19). Two of these comparables were in reasonable proximity to the subject, and the average and median of the comparables supported the request for a rate of \$23.00. As in the Bank space analysis above, the CARB also reviewed the analysis of Restaurant CRU's comparable lease rates sorted by age of construction (C-1, pg 22), which suggested a rate of \$25.25/sq ft for Banks built prior to 2005 (the subject was constructed in the late nineties).

The Respondent presented very little evidence or argument with respect to the assessed rate for the restaurant CRU space.

As in the case of the Bank/Bank Pads above, the CARB found that the best evidence of the rate came from the Complainant. As well, the CARB found that the best rate came from the analysis of the age of construction on page 21 of C-1 which suggested a rate of \$25.25/sq ft. The CARB could find little if any support for the City position in the Respondent's evidence or argument.

Accordingly, the CARB concludes the rate for the Restaurant CRU's should be \$25.25.

CRU (5,001 – 10,000):

The pattern of evidence to support the request for the CRU's was slightly different to the information provided for the Banks and for Restaurant CRU's.

In this case, the Complainant provided 4 assessment comparables in the same quadrant of the City as the subject. These rates supported their requested rate of \$12.50. The Complainant pointed out that the space under appeal in this area had been vacant for the past two years despite being constantly available for lease.

The Respondent provided little evidence or argument to support their rate of \$18.00/sq ft, however they did note that two new leases had been executed for a portion of the space in question, and the rates for these leases were \$22.00 and \$25.00 respectively. They said this indicated good support for their assessed rate of \$18.00.

Both parties alluded to the potential for a "chronic" vacancy allowance, but both further agreed that would only be considered following 3 years of vacancy.

The CARB concluded that the assessment comparables provided by the Complainant were not comparable principally because of the year of construction (1979) compared to the subject (late nineties). In addition, recent leasing in the subject was at rates significantly higher than the assessed rate for this size of tenant (\$22.00 leases vs. \$18.00 typical assessed).

Accordingly, the CARB concludes that no change in the assessed rate for the CRU (5,001 – 10,000) space is warranted.

Summary:

The CARB has changed the typical rent for the Bank (from \$40.00 to \$30.00); the typical rent for Restaurant CRU's (from \$30.00 to \$25.25); and made no change to the rate for the CRU (5,001 – 10,000) (remains at \$18.00).

Substituting these lease values in the City's Neighbourhood Shopping Centre Valuation Summary (R-1, pg 20) results in a value (rounded) of \$3,530,000 as noted above.

DISSENTING OPINION AND REASONS

There were no dissenting opinions or reasons.

Dated this 9th day of February, 2012, at the City of Edmonton, in the Province of Alberta.

James Fleming, 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: BELMONT GP LTD