



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 775/11

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 13, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2704229	12220 STONY PLAIN ROAD NW	Plan: 7721247 Block: 9 Lot: 14	\$20,847,000	Annual New	2011

Before:

Robert Mowbrey, Presiding Officer
Dale Doan, Board Member
George Zaharia, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Chris Buchanan
John Trelford

Persons Appearing on behalf of Respondent:

Brennan Tipton, Assessor, City of Edmonton
Darren Davies, Assessor, City of Edmonton
Vasily Kim, Assessor, City of Edmonton
Cam Ashmore, Legal Branch, City of Edmonton

PRELIMINARY AND PROCEDURAL MATTERS

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the board advised the parties they had no bias with respect to this file. The parties giving testimony were either sworn in or affirmed, depending on the party's preference.

[2] The Respondent objected to the Complainant's rebuttal and advised the Board of MRAC section 8(2)(c). The Respondent stated the Complainant's rebuttal did not rebut the Respondent's testimony, but was in fact new evidence. The Complainant argued that the rebuttal was in fact a rebuttal to the Respondent's evidence. The Board recessed, deliberated and asked the parties to reconvene for some clarity. The decision was then rendered by the Board that pages 1-2 inclusive would be allowed and the highlighted units on page 3 would be allowed (Units 701 & 777).

BACKGROUND

[3] The subject property is a class "A" multi-storey office building located at 12220 Stony Plain Road. The subject property has a total building area of 92,560 square feet and the 2011 assessment is \$20,847,000.

ISSUE(S)

[4] The issues are:

- a. What is the market value of the subject property?
- b. During the hearing the parties agreed the only sub-issues were the rental rate on the office portion of the building and the size of the building. The parties agreed that the size of the building was 92,560 square feet. The Respondent made a recommendation of \$20,488,000 based on the size discrepancy, but the recommendation was not accepted by the Complainant.

LEGISLATION

[5] *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

[6] The Complainant filed this complaint on the basis that the subject assessment of \$20,847,000 is in excess of market value. In support of this position, the Complainant presented a lease rate comparables chart to the Board (Exhibit C- 1, page 17). The Complainant stated that the best evidence are leases signed on or around the valuation date, thus the leases were selected on the basis of their proximity to the valuation date. The average of the 13 leases utilized was \$16.81 per square foot and the median of the leases utilized was \$17.00 per square foot. The Complainant advised the Board that three of the leases were post facto, but they could be utilized for trending purposes.

[7] The Complainant advised the Board regarding the subject property's rent roll (Exhibit C-1, pages 15-16).

[8] The Complainant presented third party documentation to the Board advising the asking lease rates for 124th Street buildings were \$13.00 to \$15.00 per square foot and the highest lease was \$20.00 per square foot (Exhibit C-1 page 46).

[9] The Complainant presented third party documentation from the Alberta Assessors' Association Valuation Guide. Two sections of the guide were highlighted; the first being Data Collection Guidelines (C-1, page 39), that states in part that "data should be pertinent to the valuation date", and the second section that was highlighted being Base Rent (C-1, page 43), that states to determine the current market rent as of the valuation date the best evidence of market rents are "actual leases signed on or around the valuation date".

[10] Under argument, the Complainant cited excerpts from the Bramalea and Mountainview Canadian Court decisions that stated the "assessed value should be reduced to the lower of market value or equitable value." (Exhibit C-1 pages 30-31).

[11] The Complainant advised the Board that the typical market rent for the subject property was \$14.00 per square foot for the 2011 assessment year.

[12] Based on the income capitalization approach, the Complainant requested a 2011 assessment of \$18,334,000.

POSITION OF THE RESPONDENT

[13] The Respondent advised the Board regarding the mass appraisal process the City of Edmonton utilizes for their office building inventory stating "the suburban office properties are assessed using the income approach via the direct capitalization method. This approach adjusts for attributes to arrive at a typical market value for properties in the inventory."

[14] Mass appraisal is a methodology for valuing individual properties which involves the following process:

1. Properties are stratified into groups of comparable property.
2. Common property attributes are identified for the properties in each group.
3. A uniform valuation model is calibrated for each group using market information incorporating the property attributes (Exhibit R-1 page 4).

[15] The Respondent further advised the Board regarding typical market rent. Current economic rents or market rents are used to form the basis of the valuation as opposed to actual rents, because in many cases actual rents reflect historical revenues derived from leases negotiated before the valuation date (Exhibit R-1, page 8).

[16] In determining gross potential income, the valuator is not bound by the contractual rent between the landlord and tenant, but must determine rental income on the basis of what is typically paid in the market at the time of valuation. This rent is known as “market” or “economic” rent (Exhibit R-1 pages 4-13).

[17] The Respondent presented a revised 2011 proforma statement that corrected the size discrepancy. The revised 2011 statement was for \$20,488,000 and the Respondent would be defending this amount (Exhibit C-1 page 22).

[18] The Respondent submitted the owner’s rent roll for the subject property (Exhibit R-1, 36-37).

[19] The Respondent presented a chart detailing the 2011 suburban valuation rates. The Respondent advised the Board that the typical office rental rate for class “A” buildings in the 124th Street district was \$17.00 per square foot (Exhibit R-1, page 38).

[20] The Respondent presented a chart of the suburban 124th Street district class “A” buildings to the Board. All of the 124th Street class “A” buildings were assessed a typical \$17.00 per square foot rental rate. In addition, the office buildings were all valued at \$188.46 per square foot (Exhibit R-1, page 39).

[21] The Respondent presented two time adjusted leases to the Board detailing rents regarding class “A” buildings on 124th street (Exhibit C-1, page 42). The average of the two leases was \$17.41 per square foot and the median was also \$17.41 per square foot. The Respondent utilized a time adjustment factor to bring the rental rate value to the valuation date (Exhibit C-1, page 41).

[22] The Respondent presented a chart detailing a number of deficiencies in the leases utilized by the Complainant (Exhibit C-1, page 43). Some of the deficiencies cited were post facto leases, step up leases and an incorrect start date.

[23] The Respondent presented a hypothetical sale of a suburban office to the Board. The Respondent advised the Board that if one reduces the rental rate of a suburban office, there would be a corresponding adjustment with the capitalization rate. The Responding stated there was a direct relationship between market rents and capitalization rates (Exhibit R-1, page 64).

[24] The Respondent advised the Board of a number of board orders regarding the valuation standard of market rent.

[25] During cross examination, the Respondent asked the Complainant questions regarding the third party documentation. The Complainant stated the asking lease rates regarding 124th Street buildings included “A”, “B” and “C” class buildings.

[26] Under argument, the Respondent challenged the Complainant's rental rate analysis stating that there were a number of deficiencies with the Complainant's rental rate analysis and there were really only two that were valid.

[27] In addition, the Respondent challenged the Complainant regarding the Complainant's testimony page 45 of C-1. The Respondent noted the Complainant only highlighted the one guideline, but the Respondent noted there were several additional guidelines that were included.

[28] In conclusion, the Respondent requested the Board to confirm the revised 2011 assessment of \$20,488,000.

DECISION

[29] The decision of the Board is to reduce the 2011 assessment to the Respondent's revised amount of \$20,488,000.

REASONS FOR THE DECISION

[30] The Board reviewed both the Complainant's and Respondent's evidence and found the Respondent's evidence to be more compelling.

[31] The Board was persuaded by the Respondent's evidence regarding the fact that all 124th Street class "A" buildings were treated in a fair, equitable and consistent manner. All of the class "A" buildings had a typical lease rate of \$17.00 per square foot for assessment purposes.

[32] The Board was not persuaded by the Complainant's lease rate analysis. While the Board noted that the Complainant's leases were close to the valuation date, the Board noted the deficiencies with the leases. The Complainant had a number of 124th Street "AA" class buildings, which were not suitable for comparability to 124th Street class "A" buildings. Three of the leases were post facto and another lease had an incorrect start date on the lease. In fact, there were only two leases that could be included in the lease rate analysis for class "A" buildings in the 124th street district. However, the Board did note that the Complainant utilized all the leases on page 17, C-1 to arrive at a median of \$17.00 per square foot and an average of \$16.81 per square foot, which supports the assessment. The onus is on the Complainant to provide sufficient and compelling evidence to show the incorrectness on an assessment. With only two leases that could be considered valid for analysis purposes only, the Board was satisfied the Complainant did not provide sufficient and compelling evidence to form an opinion as to the incorrectness of the assessment.

[33] The Board put little weight on the Complainant's actual lease comparables, as there were only two leases presented as evidence.

[34] The Board put little weight on the Complainant's third party documentation as the 124th Street asking lease rates were not broken down by building classes of "A", "B" and "C".

DISSENTING OPINION AND REASONS

[35] There was no dissenting opinion.

Dated this 24th 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: WEST CHAMBERS ALBERTA INC