



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
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NOTICE OF DECISION NO. 0098 778/11

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 14th 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1251305	15508 87 AVENUE NW	Plan: 2786RS Block: 1 Lot: 14A	\$6,937,000	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

Persons Appearing on behalf of Respondent:

Brennen Tipton, Assessor, City of Edmonton
Vasily Kim, Assessor, City of Edmonton
Cam Ashmore, Legal Branch, City of Edmonton

PROCEDURAL MATTERS

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members stated that they had no bias on this file.

PRELIMINARY MATTERS

[2] There were no preliminary matters.

BACKGROUND

[3] The subject property, located in the 149th Street District with a municipal address of 15508 – 87 Avenue NW, is a 42,183 square foot multi-storey office building comprising of 40,857 square feet of office space and 1,326 square feet of CRU space. Based on the City of Edmonton's parking requirements, the subject property is mandated to provide 127 parking stalls. There are 42 parking stalls on the subject property, necessitating the provision of an additional 85 parking stalls. This is achieved by five adjacent lots, each with its own roll number. These five roll numbers had been subjects of complaints to the Composite Assessment Review Board, but the complaints had been withdrawn pursuant to an agreement between the Complainant and the Respondent wherein the assessment of the subject property would be reduced by the amount of \$1,125,000 to account for the majority of the collective assessments of the five lots.

ISSUE(S)

[4] The issues are:

- a. Is the 2011 assessment of the subject property too high compared to assessments of similar properties?
- b. Is the size of the subject property as shown by the Respondent incorrect?
- c. Is it appropriate to remove the assessed value of associated lots from the subject property?
- d. Is the typical lease rate of \$15 per square foot too high?

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 stated that although there initially was a concern about the square footage attributed to the subject property by the Respondent that this issue was resolved, with the correct size shown in the revised Respondent's pro forma (Exhibit R-1, page 25).

[7] There had been an issue regarding the assessment of the subject property due to parking requirements. However, this issue had been resolved by reducing the assessment of the subject property by the majority of the assessments of five adjacent lots. The amount of the reduction is \$1,125,500 as is included in the Respondent's revised pro forma (Exhibit R-1, page 25).

[8] The Complainant argued that the \$15 per square foot typical lease rate applied by the Respondent was excessive relative to the actual lease rates being achieved by the subject property. To support this position, the Complainant provided ten leases for spaces in the subject property. The commencement dates of these leases were from December 1, 2009 to June 1, 2010 and ranged from \$9.00 to \$13.00 per square foot, resulting in an average of \$11.13 per square foot and a median of \$11.63 per square foot. The Complainant requested that the lease rate applied to the subject be lowered from \$15.00 to \$11.00 per square foot (Exhibit C-1, page 23).

[9] To support the market lease comparables shown on Exhibit C-1, page 23, the Complainant provided a "Commercial Lease Summary" for the subject including the lease rates per square foot along with the commencement and end dates of the leases (Exhibit C-1, pages 19 to 22).

[10] The Complainant referred the Board to provisions in the Alberta Assessors' Association Valuation Guide. The two points that were being emphasized were:

1. "Data should be pertinent to the valuation date" (Exhibit C-1, page 45).
2. "Actual leases signed on or around the valuation date" is the most important factor in establishing the market rent (Exhibit C-1, page 49).

[11] The Complainant provided information authored by Colliers International which showed that the average asking rental rate for properties in the 149 Street District ranged from \$14 to \$16 per square foot (Exhibit C-1, page 52).

[12] By adjusting the assessment to account for a reduced size, removing the value of the associated lots from the subject property, and reducing the rental rate from \$15 to \$11 per square foot, the Complainant requested the Board to reduce the 2011 assessment of the subject property from \$6,937,000 to \$3,840,000.

POSITION OF THE RESPONDENT

[13] The Respondent acknowledged agreement with the Complainant on the size of the property and the issue of the associated lots used for parking to address the parking requirement

by-law. To address these two issues, the Respondent provided a revised pro forma that showed a reduced size from 43,108 square feet to 42,183 square feet, and included a reduction in the assessment in the amount of \$1,125,500 to account for the removal of the assessments of the five adjacent lots that were used for parking in support of the subject property.

[14] The Respondent stated that the City of Edmonton is legislated to use Mass Appraisal, thus applying typical market rents, typical vacancy rates, typical operational costs and typical capitalization rates to similar inventories. Additionally, the Respondent had not received a response to the request for information from the property owner in a timely manner. The subject property is classed as a “B” class building and has therefore been assessed as all other “B” class buildings in the 149th Street District.

[15] The Respondent provided a “commercial lease summary” dated January 19, 2011, confirming the leases put forward by the Complainant (Exhibit R-1, pages 34 – 36). However, the Respondent argued that some of the leases would have to be adjusted upwards to account for parking that provided additional income for the owner.

[16] The Respondent included a “2011 Suburban Valuation Rates” used by the Respondent in establishing assessed values. Properties in the 149th Street District classed as “B” buildings as is the subject, were all assessed on the basis of a \$15 per square foot rental rate, a 5% vacancy rate, a 2% structural rate, a \$13 office vacancy shortfall, a \$13 CRU vacancy shortfall, and an 8% capitalization rate (Exhibit R-1, page 37).

[17] The Respondent provided nineteen leases from seven of the twenty-nine “B” class buildings in the 149th Street District. The effective dates of these leases ranged from January 1, 2009 to March 1, 2010 with expiry dates ranging from July 31, 2010 to February 29, 2020. The time-adjusted rents ranged from \$9.95 to \$17.71 per square foot resulting in an average of \$14.48 per square foot, and a median of \$15.36 per square foot (Exhibit R-1, page 38).

[18] The Respondent provided a chart of time adjustment factors covering the eighteen-month period between January 1, 2009 and June 30, 2010 (Exhibit R-1, page 40). These factors were applied to the leases used by the Respondent in determining the market rent used in establishing the assessed value of the subject property.

[19] The Respondent provided a review of the Complainant’s lease comparable chart. Two of the leases were deemed outdated since the commencement dates were June 1, 2005 and December 1, 2007, leaving the remaining eight leases as useable. However it was the position of the Respondent that the lease rates had to be adjusted upwards because of the additional parking revenue received by the owner, which is not typically the case with suburban office buildings.

[20] The Respondent included a hypothetical sale using different rent rates of \$13 and \$10 per square foot. The purpose of the illustration was to display the direct relationship between market rents and capitalization rates. In the example, if the market rent changes by \$3 per square foot, the capitalization rate changes by more than a full percentage point in order to arrive at the sale value. The illustration displays the importance of consistency when applying and deriving typical income parameters, and that the typical market rent and the typical cap rate is interrelated (Exhibit R-1, page 42).

[21] In order to prove equity, the Respondent provided a chart showing the typical rates used in establishing assessed values for all twenty-nine suburban “B” class office buildings in the 149th Street District. Of importance to this complaint, a typical office rent of \$15 per square foot was applied to all the properties, resulting in an assessed value of \$166.44 per square foot (Exhibit R-1, page 43).

[22] The Respondent provided seven Altus Insite reports that showed asking rents ranging from \$14 to \$18 per square foot for properties in the 149th Street District (Exhibit R-1, pages 44 – 50).

[23] The Respondent included a Colliers International report that showed a \$14 - \$16 asking rate for Suburban Market office space in the 149th Street District (Exhibit R-1, page 53).

[24] The Respondent requested the Board to confirm the recommended reduced 2011 assessment in the amount of \$5,910,500 that reflected the corrected size of the subject property, and the reduction in assessment due to the removal of the associated lots that were required for parking by the subject property.

DECISION

[25] The Board accepts the Respondent’s recommendation to reduce the 2011 assessment.

Roll Number	Original Assessment	New Assessment
1251305	\$6,937,000	\$5,910,500

REASONS FOR THE DECISION

[26] The Board placed less weight on the Complainant’s comparable lease information since the leases provided were from the subject property, and there were no comparable leases from similar properties in the same district. As well, it was proven that in addition to the identified leases in the subject property, there was additional income received by the property owner for parking. It was agreed that typically, there is no additional charge for parking involving suburban office properties, hence the need for adjustments.

[27] The Board concurred with the Complainant’s position that leases signed on or around the valuation date are preferable. However, the Board acknowledged that leases that may be dated within a reasonable time frame, when time-adjusted to the valuation date are valid. This position is supported by a Calgary ARB Decision 0660/2010-P that stated: *“The valuation date is set out in legislation and in the opinion of the Board, time adjusting market rents to valuation date is no less critical than time adjusting sales or any other market data to the valuation date. In a dynamic market, the average or median market rent of the preceding 12 month period will obviously be higher or lower (depending on the direction of the market) than the typical market rent as of the valuation date”* (Issue 2A, page 6 of 10). With respect to this complaint, the Respondent time adjusted the leases that were used to support the applied \$15 per square foot typical rent. In fact, the time adjusted median of \$15.36 per square foot is lower than the unadjusted median of \$16.25 per square foot, suggesting that there was a “down market”.

[28] The Board placed less weight on the Colliers International average asking rent information because it included all classes of buildings (AA, A, B, C) while the subject property is a “B” class building. However, it is interesting to note that the average asking range for rents in Suburban Market “B” class buildings in the 149th Street District was \$14 - \$16 per square foot supporting the Respondent’s applied typical rent of \$15 per square foot.

[29] The Board placed greater weight on the lease comparables provided by the Respondent. Nineteen leases were provided from seven of the twenty-nine properties in the 149th Street District. The time adjusted median resulting from these nineteen leases was \$15.36, supporting the typical lease rate of \$15.00 applied by the Respondent to all the Suburban Office “B” class buildings in the 149th Street District.

[30] The Board agrees with the Respondent’s position that “*current economic or market rents are used to form the basis of evaluation as opposed to actual rents*”. This position is supported by the Alberta Assessors’ Association Valuation Guide that states: “*In determining gross potential income the assessor is not bound by the contractual rent between the landlord and the tenant. Current market rents should be used to form the basis of evaluation as opposed to actual rents because actual rents may reflect what market rents were at the time (before the valuation date) and a given lease was negotiated*”.

[31] In terms of equity, the Board was persuaded by the Respondent’s chart that showed that all rates applied to all the twenty-nine properties in the 149th Street district were identical, resulting in the same \$166.44 assessment per square foot.

[32] The Board accepted the parties’ resolve on the size and associated lots issues resulting in the recommended reduced assessment submitted by the Respondent.

[33] The Board is persuaded that the reduced assessment of \$5,910,500 for the subject property is fair and equitable.

DISSENTING OPINION AND REASONS

[34] 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: 87TH AVENUE INVESTMENTS INC