



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
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NOTICE OF DECISION NO. 0098 799/11

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 8, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3170073	10150 102 STREET NW	Plan: 8720596 Block: 2 Lot: A	\$40,411,500	Annual New	2011

Before:

Larry Loven, Presiding Officer
Jack Jones, Board Member
Jasbeer Singh, Board Member

Board Officer: Karin Lauderdale

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

James Cumming, Assessor, City of Edmonton
Cameron Ashmore, Solicitor, City of Edmonton
Tracy Ryan, Assessor, City of Edmonton, observing

PRELIMINARY MATTERS

1. Upon request by the Respondent, all witnesses were affirmed or sworn-in, prior to hearing their testimony.
2. The Respondent requested that the order of the hearing of the complaint files on the agenda before the CARB be arranged by building class in order to enable a smooth and logical flow and to avoid jumping from one class of down-town office properties to another. With the agreement of both parties, the CARB accepted the suggested sequence of hearings as presented by the Respondent.
3. The Respondent objected to the Complainant's rebuttal document that had been disclosed to the Respondent, on the grounds that the information contained therein constituted new evidence that had no relevance to the information contained in the Complainant's initial disclosure and therefore should not be considered by the CARB according to the provisions contained in Matters Relating to Assessment Complaints (MRAC) s8(c).
 - a. The CARB, without considering the merits of the information contained in the Complainant's rebuttal, proposed that the issue be addressed as and when the same was presented in the course of the hearing, at which time the CARB would be in a better position to determine if any or the Complainant's entire rebuttal should be allowed.
 - b. When the rebuttal was presented, the Respondent objected to the same being new evidence. The CARB recessed, deliberated and decided to allow the Complainant's rebuttal, excluding page 4, that in the CARB's opinion, constituted new evidence with no relevance to the issues at hand and had been objected to by the Respondent.

BACKGROUND

4. The subject building is known as the *102nd Street Centre* and is located in the financial district of downtown Edmonton. The *102nd Street Centre* is an AA sub-class office building and contains 130,555 square feet of CRU space in addition to storage space, complete with underground parking. The subject building was originally constructed as a retail podium for a future high rise office building that has not yet been constructed.
5. The subject property has been assessed utilizing the income approach to valuation, established by applying market lease rates to the various building components and a 7.5% capitalization rate.

ISSUE(S)

6. The complaint form listed a number of issues that have since been abandoned by the Complainant with the only remaining issues being:
 - 1) Is the 2011 assessment of the subject property at \$40,411,500 fair and equitable?
 - 2) Is the capitalization rate (7.5%) utilized in preparing the 2011 assessment for the subject property correct?

LEGISLATION

7. *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

8. The Complainant presented evidence (C-1 & C-2) and argument for the CARB's review and consideration.
9. The Complainant identified the subject property as a retail podium (C-1, p. 7) with all the leasable space classified as either retail ("CRU") or storage. None of the space within the subject property is classed as office and therefore the subject property should be assessed as retail space using the 8.5% capitalization rate utilized on other retail properties in the same market area.
10. The Complainant presented two equity comparables (C-1, pp. 9, 16-19) to illustrate that a capitalization rate of 8.5% had been used to prepare the 2011 assessment for retail properties in close proximity to the subject property.
11. As further support for the Complainant's valuation of the subject property the Complainant presented the sale of the subject property (C-1, p. 13) on Oct. 23, 2009. The sale was for a 50% interest in the subject property and when time adjusted to the valuation date of July 1, 2010 indicates a total value for the subject property of \$37,017,500.
12. The Complainant responded to the Respondent's decision to assess the subject property as an AA class high rise office building by noting that the original intent for the high rise development had been stalled by economic conditions and that there were no definitive plans at present for any additional development. The Complainant reiterated that the subject property as it presently exists is a retail podium and should be assessed as such utilizing a retail capitalization rate.
13. The Complainant presented rebuttal evidence of another downtown development (C-2) that originally had greater plans than eventually materialized due to economic conditions but was currently being assessed as at operated in its present state.
14. In summary the Complainant requested the 2011 assessed capitalization rate for the subject property be revised to 8.5%. This revision to the capitalization rate would reduce the 2011 assessment from \$40,411,500 to \$37,932,000 (C-1, p. 11). The Complainant also requested

the CARB consider the time adjusted sale of the subject property which would reduce the 2011 assessment from \$40,411,500 to \$37,017,500 (C-1, p. 13)

POSITION OF THE RESPONDENT

15. The Respondent provided the CARB with a 159 page document (R-1) that included: mass-appraisal methodology used for the assessment; relevant case-law; excerpts from *The Appraisal of Real Estate*, published by the Appraisal Institute of Canada; relevant text references from the *Real Property Assessment* published by the University of British Columbia and the International Association of Assessing Officers; the rent rolls in respect of the subject property; and, data sets used to derive the typical market rental rates.
16. The subject property under appeal is comprised of a AA class building, referred to as *102nd Street Centre*, in the financial sector of the down-town office district.
17. Upon questioning, the Complainant confirmed that the only issue before the CARB was the 'Capitalization Rate' (7.5%) applied to the retail component of the property, to determine the assessment value for the year 2011 (R-1, p. 19).
18. The Respondent challenged the Complainant's suggestion that a \$19.2m sale of 50% interest in October 2009 was a true indicator of the value. The Respondent advised the CARB that:
 - a. The sale entailed a 50% interest acquisition to consolidate a 100% interest in the property (R-1, p. 46);
 - b. It was not known whether the 50% sale price was motivated or discounted;
 - c. It was not known as to how much value in respect of the structural design and the foundation for a future 25 storey office tower, was included in the \$19.2m sale price for 50% interest;
 - d. No independent appraisal had been carried out (R-1, p. 49);
 - e. Transaction price included an undisclosed value of 'building chattels' (R-1, p. 50); and,
 - f. The property had not been advertised and had no exposure on the open market (R-1, p. 51)
19. The Respondent advised the CARB that the governing provincial legislation required that the mass-appraisal methodology using typical market rents, typical vacancy rates, typical operational costs and capitalization rates be used for the entire down-town office inventory; and the same was done in respect of the subject property under appeal (R-1, p. 19)
20. The Respondent advised the CARB that the assessment branch had equitably applied the typical capitalization rate of 7.5% to determine the 2011 assessment value, to all similar AA class buildings in the Edmonton down-town district (R-1, p. 41).
21. The Respondent argued that in view of the interior configuration of the premises resembling office spaces (R-1 p. 14-15), the assessment branch had correctly classified the space as 'atypical' office space and applied appropriate equitable rates.
22. The Respondent advised the CARB that while the Complainant sought a much lower assessment valuation of \$37,932,000 (C-1, p. 11), based on a higher capitalization rate (8.5%) for the 'retail' portion of the property, the Complainant had failed to provide any credible supporting information in support. The comparables used by the Complainant,

namely *City Centre East* and *City Centre West* were not true comparables, in that *City Centre East* had a substantial office component in two high-rise towers.

23. The Respondent provided the 2011 assessment proforma for *Manulife Place* and *Oxford Tower*, that provided a better comparison to the subject property and both assessments had been based on a 7.5% capitalization rate (R-1, pp. 44-45).
24. The Respondent argued that the Complainant's assertion that the subject property be treated as retail space was effectively challenged by the independent market information where the subject property had been identified as having a total office area of 134,144 square feet (R-1, p. 42).
25. The Respondent further argued that treating the subject property as a part of shopping centre inventory with an 8.5% capitalization rate, would have attracted a different set of market rental rates and resulted in an overall 2011 assessment value of \$39,546,000; which would be within 2% of the current assessment (R-1, p. 61).
26. The Respondent requested the CARB to confirm the 2011 assessment of \$40,411,500 based on typical capitalization rate of 7.5%.

DECISION

27. The decision of the CARB is to reduce the 2011 assessment from \$40,411,500 to \$37,932,000.

Roll Number	Original Assessment	New Assessment
3170073	\$40,411,500	\$37,932,000

REASONS FOR THE DECISION

28. The CARB finds that even though the two comparables *Manulife Place* and *Oxford Place*, provided by the Respondent were assessed as class AA high-rise office buildings containing CRU, parking and storage space, all assessed with a capitalization rate of 7.5%, these differed from the subject property in that the subject property is contains no assessed office space.
29. The CARB finds that the two comparable properties provided by the Complainant, *City Centre West* and *City Centre East*, assessed as shopping centre's, possessed more similarities to the subject property, being a retail podium with underground parking.
30. The CARB notes that the assessment summary provided in respect of the Complainant's comparables included CRU, office, storage and parking spaces assessed using different capitalization rates; with all retail components assessed using a capitalization rate of 8.5%; the same rate requested by the Complainant for the subject property.
31. The CARB was not persuaded by the Complainant's argument pertaining to the sale price of 50% interest in the subject building. Several arguments cited by the Respondent negated any weight this argument could add to the Complainant's position.

32. The CARB finds that the subject building is similar to the retail podium connected with the City Centre East without the two office towers and the CARB is persuaded by the Complainant's argument that the subject property should be equitably assessed i.e. with a Capitalization rate of 8.5% as applied to the retail podium for the City Centre East.
33. The CARB utilized the market lease rates applied in the 2011 assessment combined with a capitalization rate of 8.5%, as requested by the Complainant, for the retail component, to arrive at the revised 2011 assessment valuation (\$37,932,000).

DISSENTING OPINION AND REASONS

None

Dated this 7th day of March, 2012, at the City of Edmonton, in the Province of Alberta.

Larry Loven, 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: 1484958 ALBERTA LTD