

IN THE MATTER OF A COMPLAINT filed with the City of Leduc Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

959630 Alberta Inc., represented by Altus Group Ltd., Agent - Complainant

- a n d -

The City of Leduc - Respondent

BEFORE:

Members:

R. Reimer, Presiding Officer

G. Thomas, Member

L. Majeski, Member

A hearing was held on October 29, 2010 in the City of Leduc in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

Roll Number: 011378 Assessment: \$11,112,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 94 suite apartment complex known as Edgewood Estates. It was constructed in 2002 and is located at 3604 Rollyview Road..

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make this decision under Part 11 of the Act. There were no objections to the composition of the CARB and no other specific jurisdictional or procedural matters were raised at this hearing.

A previous CARB had heard an appeal by the City of Leduc regarding the jurisdiction of this CARB to hear this appeal. The decision of that CARB, set out in decision number CARB 04/2010-P, was that the appeal should proceed to this merit hearing.

PART C: ISSUES

The sole issue identified on the Assessment Review Board Complaint Form was number 3, the assessment amount. The requested assessment was \$10,345,500.

During the course of the hearing, the Complainant further defined the issue as being whether or not the correct capitalization (cap) rate had been applied.

Position of the Parties:

The subject property was assessed using the income approach to property valuation. The Complainant submitted exhibit C1. On page 8 of exhibit C1 the Complainant states that all elements of the income approach which have been used in the valuation of the subject property are reasonable, with the exception of the capitalization (cap) rate. The Complainant states that it is his position that a cap rate of 7.25% would be appropriate. The subject property has been assessed using a cap rate of 6.75%.

In support of this position, the Complainant submitted six cap rate comparable properties on page 18 of exhibit C1. These comparables consisted of apartment buildings, with sizes ranging from 48 suites to 186 suites. They are located in communities near Leduc, including Edmonton, but none are located in Leduc. Four of these sales were Post Facto to the valuation date of July 1, 2009. One comparable is a listing, not a sale. The Complainant noted that he had restricted his comparables to properties of greater than 40 suites, arguing that it is more important to compare larger properties to larger properties than to have a large sample size. It was his contention that buildings of this size and price range trade in a different market than smaller buildings, with fewer prospective purchasers. He noted that it is difficult to find many sales of these larger properties. These six properties had a range of cap rates between 7.03% and 7.47%, with an average of 7.25% and a median of 7.24%.

The Complainant also submitted, on pages 25 through 28 of exhibit C1, a survey, conducted by Altus Group, which indicated that, in the second quarter of 2009, cap rates in Edmonton for suburban multiple unit residences, had been in a range of 6.5% - 7.5% with an upward trend. The Complainant submitted, on pages 29 through 32 of C1, a Colliers International 2009 Capitalization Rate Report for the second quarter of 2009. This document reported a range of 6.75% - 7.25% for suburban low-rise multi-family buildings.

The Complainant referenced "*Bramalea LTD. V. British Columbia*". The court stated that the taxpayer has "*two distinct rights: (1) a right to an assessment which is not in excess of that which can be regarded as equitable; and (2) a right not to be assessed in excess of actual value...*"

The Respondent, on page 56 of exhibit R1, provided a list of six apartment buildings in Leduc, all assessed using a cap rate of 6.75%, illustrating that the assessment is equitable.

On pages 57 through 60 of R1, the Respondent provided a review of 59 market comparables, which he stated was a complete list of all apartment building sales in the Edmonton area which occurred from June, 2008 until September, 2009. Both parties agreed that the market is comparable throughout the greater Edmonton area.

This review resulted in an average adjusted cap rate of 6.72%. The Respondent stated that it was his position that statistical testing required a sample size of at least fifteen to be accurate. He stated that he believed that sample size was more important than limiting comparison to larger buildings.

The Complainant submitted exhibit C2 in rebuttal. On page 10 of C2, the Complainant provides an analysis of seven larger buildings from the Respondent's 59 sale comparables. This analysis results in a median cap rate of 7.07%. On page 11 of C2, the Complainant analyses only those larger buildings from the Respondents 59 which sold in 2009. This produces a median cap rate of 7.59%. On page 11 of C2, the Complainant has analyzed 27 properties from the Respondent's 59 which sold in 2009. This produces a median cap rate of 7.02%.

Both parties also submitted direct sale comparisons based on a price per suite basis. Both parties agreed that there was very little credibility to using this method to value apartment properties because of the significant adjustments required to make properties comparable. Accordingly the CARB placed very little weight on this methodology.

PART D: FINAL DECISION

The CARB carefully considered all of the evidence before it. The CARB accepts that it is important, in comparing properties, that the properties be comparable. It seems reasonable that larger multi-family properties would be more comparable to other properties of similar size.

The CARB analyzed the evidence presented both by the Complainant on page 12 of exhibit C2 and by the Respondent on pages 57 – 60 of exhibit R1. There are very few evident patterns, other than that it appears to the CARB that there is an upward trend to cap rates for multi-family buildings.

The CARB preferred the evidence provided on page 10 of exhibit C2. This chart includes seven sales dating from June 4, 2008 until September 18, 2009. There are three sales from 2008 and one Post Facto to the July 1, 2009 valuation date. While not an extensive sample, the buildings are all of a similar size to the subject property. The range of cap rates is 5.64% - 8.44%, with a median of 7.07%. While the Respondent correctly pointed out that Post Facto sales are not available to the assessor on the July 1 valuation date, the CARB can use Post Facto sales as an indication of trends.

The CARB finds that 7.0% would be a reasonable cap rate to apply to the subject property based on the above evidence. Dividing the Net Operating Income of the subject property by 7.0%

results in a value of \$10,715,000, or a reduction in assessed value of \$397,000. This is a reduction of 3.57%.

Matters Relating to Assessment and Taxation Regulation states at section 2:

- 2** An assessment of property based on market value
- (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property.

The CARB recognizes that market value, as arrived at by using mass appraisal, is not an absolute value but rather a value range. This concept of a range of values was supported by the evidence. If a property is assessed within that range, that assessment must be considered to be fair and equitable.

Section 467(3) of the *Municipal Government Act* states as follows:

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.


The current assessed value of \$11,112,000 is 3.7% greater than the proposed revised assessment of \$10,715,000. The CARB considers this to be within a reasonable range and, therefore, the current assessment is fair and equitable.

The assessment is confirmed as follows.

Roll No./Property identifier	Value as set by the CARB	Owner
011378	\$11,112,000	959630 Alberta Inc.

It is so ordered.

Dated at the City of Leduc in the Province of Alberta, this 12th day of November 2010.



R. Reimer
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO.	ITEM
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1. C1 Appellant Disclosure
2. C2 Appellant Rebuttal
3. R1 Respondent Disclosure

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
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1. Chris Buchanan, Altus Group Ltd., Agent for the Complainant
2. Wallid Melhem, Altus Group Ltd., Agent for the Complainant
3. Warren Powers, Assessor
4. Anthony Hendrata, Assistant Assessor