

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 01599**

**Assessment Roll Number:** 1413202  
**Municipal Address:** 11050 156 Street NW  
**Assessment Year:** 2013  
**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Shannon Boyer, Presiding Officer**  
**Brian Carbol, Board Member**  
**Brian Frost, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer, the parties did not object to the composition of the Board. The Board members stated they had no bias with regard to this file.

### **Preliminary Matters**

[2] The Respondent stated the second floor vacancy rate as used in the assessment should be increased from 5% to 10%. This would result in a decrease in the 2013 assessment from \$5,459,500 to \$5,282,500.

[3] The Complainant accepted the reduction, but stated that the remaining issue respecting the lease rates applied by the City in its assessment still needed to be addressed. The Complainant therefore requested that the appeal continue.

### **Background**

[4] The subject is a two-storey neighborhood shopping centre situated in the northwest sector of the City (market area 120) at 11050 – 156 Street NW. The building comprises 46,070 sq ft and is in average condition. The effective year built is 1977. The lot size is 103,890 sq ft.

## **Issue**

[5] Has too high a lease rate been used in the assessment of the subject resulting in it having been assessed in excess of its market value?

## **Legislation**

[6] **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

s 1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

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**

[7] The Complainant presented written and oral arguments in support of the contention that the market rental rate applied to the subject by the municipality for both the CRUMED and CRUMAX spaces is too high. This resulted in an over-assessment of the subject (Exhibit C-1).

[8] The Complainant argued that the best indicator of value is the market lease rates for the subject and in support of this position cited a portion of the Alberta Assessors' Valuation Guide (C-1, pg. 22).

[9] The Complainant argued that recent leasing in the CRUMED units of the subject produces a median rental rate of \$10.50/square foot. The four lease comparables in proximity to the subject show a median and average rental rate of \$11.00/square foot (C-1, pg.18).

[10] The Complainant stated the subject is located in the far northern extreme of market area 120 and further that market area 120 extends from 111 Avenue south to the North Saskatchewan River, perhaps one of the most divergent demographics in the City. The Complainant noted that the subject's location would be considered a less favorable location within market area 120.

[11] With respect to the rental rate applied to the CRUMAX space, the Complainant presented two lease comparables with an average of \$8.50/square foot (when corrected for mathematical error) (C-1, pg.19).

[12] The Complainant further argued that the lease rates used in the assessment of the subject's eight CRUMED main spaces at \$13.00/square feet indicates use of a lease rate in the range of 108% to 260% greater than actual leases. The Complainant also cited two leases in a building in close proximity to the subject where the lease rates used in the assessments were 143% greater (C-1, pg.20).

[13] In Rebuttal, the Complainant presented a map indicating the locations of all identifiable comparables (C-2, pg. 15). The Complainant pointed out that most of the Respondent's equity comparables were located south and west of the subject in areas that enjoyed greater lease rates because of their location.

[14] In summation, the Complainant argued that the CRUMED and CRUMAX rental rates applied by the City should be reduced to \$10.50 and \$7.50 respectively. Taken in conjunction with the agreed upon reduced vacancy rate to 10% for the upper floor space, a reduction of the assessment to \$4,173,500 was requested.

### **Position of the Respondent**

[15] It is the Respondent's position that the 2013 assessment is correct and should be confirmed. In support, the Respondent presented an 80 page brief and oral argument (Exhibit R-1).

[16] The Respondent noted the second floor lease rate is a default rate calculated as being one half of the lease rate for the main floor CRUMED space.

[17] The Respondent explained that assessment is based, as legislated, on Mass Appraisal, wherein many properties within each market area are analyzed. On the basis of that analysis, typical rates for leases, vacancy and capitalization are derived.

[18] In support of the lease rates used in the assessment for the CRUMED space within the subject, the Respondent provided eight current market lease rates within the subject's market area. These leases ranged from \$13.50 to 17.00 per sq ft, with an average of \$14.94 per sq ft and a median of \$14.50 per sq ft (R-1, pg. 13). The Respondent stated this fully supported the \$13.00 per sq ft lease rate used for CRUMED space in the subject.

[19] In further support of the CRUMED lease rates used in the assessment of the subject, the Respondent provided nine equity rent comparables. These comparables ranged from \$13.00 per sq ft to \$14.50 per sq ft, averaged \$13.94 per sq ft and reflected a median of \$14.00 per sq ft (R-1, pg. 15).

[20] In support of the lease rates used in the assessment for the CRUMAX space within the subject, the Respondent provided six current market lease rates within the subject's market area. These rates ranged of from \$12.97 to 16.13 per sq ft, with an average of \$14.17 per sq ft and a median of \$14.16 per sq ft (R-1, pg 14). The Respondent stated this fully supported the \$11.75 per sq ft lease rate used for CRUMAX space in the subject.

[21] In further support of the CRUMAX lease rates used in the assessment of the subject, the Respondent provided seven equity rent comparables. These ranged from \$11.25 per sq ft to

\$12.75 per sq ft, with an average of \$11.96 per sq ft, and a median of \$12.00 per sq ft (R-1, pg 15).

[22] In support of the recommended reduced assessment of \$5,282,500 (as discussed during review of the Preliminary Matters), the Respondent provided a revised pro-forma of the valuation (R-1, pg 7).

[23] In summary, the Respondent reiterated that the City is legislated to use Mass Appraisal in the assessment of properties. The Respondent added that, notwithstanding the legislative issue, the City would not have the time to analyze the cash flow of every property; therefore mass appraisal is the only logical method. The Respondent closed by stating that all market and equity lease comparables indicated that the rental rates used for the assessment of the subject were lower than those evidenced or used in the comparable leases.

### **Decision**

[24] The 2013 assessment is reduced to \$4,414,500.

### **Reasons for the Decision**

[25] The Board first looked to the location of the subject within the market area. The Board was convinced by the Complainant's position that the subject is located on the northern perimeter of market area 120 and was less likely to command lease rates as high as those located further south and west.

[26] The Respondent provided a total of 14 lease market rates, but was unable to confirm the locations of those comparable properties. Insufficient data was given regarding these comparables, which prevented the Board from determining if they were comparable to the subject.

[27] The Respondent provided 16 equity lease rate comparables, which, as evidenced by the Complainant's map (C-2, pg 15), while located in market area 120, were located south and west of the subject in locations where higher lease rates would be expected.

[28] The Board is satisfied that the Complainant provided comparable lease rates for properties located near the subject and that there was sufficient evidence to cause the Board to question the lease rates used in the assessment of the subject.

[29] The Board is not satisfied that the Respondent provided sufficient evidence as to the location of the Respondent's lease comparables, to convince it that the lease rates used in the assessment were correct.

[30] The Board noted a discrepancy between the net leasable area of 46,070 sq ft as noted in the assessment, as opposed to the net leasable area of 46,294 sq ft as noted in the actual rent roll. In the interest of consistency, the Board concurs with the Complainant's position that 46,070 sq ft as used by the City be used in the current assessment.

[31] The Board gave most weight to the Complainant's argument that the lease rates within the subject, as well those comparables within close proximity of the subject, are the most representative of market lease rates for the subject. In its analysis of the Complainant's data, however, the Board found that the Complainant was too aggressive in the choice of lease rate given the evidence as presented. The Complainant's CRUMED lease comparables reflect an average and median of \$11.00 per sq ft which the Board concluded is more representative of a market lease rate for the CRUMED space than \$10.50 per sq ft, as requested by the Complainant.

[32] The Board found that the Complainant was also too aggressive in the choice of lease rate given the evidence as presented for CRUMAX. The Complainant's CRUMAX lease comparables reflect an average and median of \$8.50 per sq ft (when corrected for a mathematical error). The Board concluded that \$8.50 per sq ft is more representative of a market lease rate for the CRUMAX space than \$7.50 per sq ft, as requested by the Complainant.

[33] Based upon the square footage as used by the City, a CRUMED of \$11.00 per square foot and a CRUMAX of \$8.50 per square foot, the Board concludes that the assessment should be reduced to \$4,414,500.

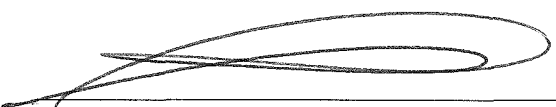
[34]

**Dissenting Opinion**

[35] There was no dissenting opinion.

Heard October 28, 2013.

Dated this 19 day of November, 2013, at the City of Edmonton, Alberta.

  
Shannon Boyer, Presiding Officer

**Appearances:**

John Trelford  
for the Complainant

Alana Hempel  
for the Respondent

*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.*