

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group for 1421526 Alberta Ltd. v The City of Edmonton, 2014 ECARB 00672**

**Assessment Roll Number:** 3101573

**Municipal Address:** 10508 97 Street NW

**Assessment Year:** 2014

**Assessment Type:** Annual New

**Assessment Amount:** \$3,213,500

Between:

**Altus Group for 1421526 Alberta Ltd.**

Complainant

and

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

Respondent

---

### **DECISION OF**

**Tom Eapen, Presiding Officer**

**Mary Sheldon, Board Member**

**Taras Luciw, Board Member**

---

### **Preliminary Matters**

[1] There were no preliminary matters.

### **Background**

[2] The subject property is a two storey neighborhood shopping centre comprising 28,412 square feet situated on a 26,006 square foot lot and is known as the Pacific Rim Mall. It was constructed circa 1986 and is located at 10508 – 97 Street NW in the McCauley subdivision.

### **Issues**

[3] Is the rental rate applied by the municipality to the restaurant space too high?

[4] Is the vacancy shortfall applied by the municipality too low compared to similar space types?

### **Position of the Complainant**

[5] The Complainant presented evidence wherein the lease rates applied by the City were described as inequitable and the vacancy shortfall rates as being too low and provided market comparables to support its position.

[6] Specifically, the Complainant addressed a 3,608 square foot restaurant space on the main floor of the subject property, to which the City applied a \$16.00 per square foot rate while the actual lease, effective November 1, 2013, was for a rate of \$10.98 per square foot. The Complainant included a Rent Roll for the subject property and a Market Value Proforma using a rate of \$11.00 per square foot for the restaurant space to more accurately reflect the income.

[7] The Complainant provided a Restaurant Rate Comparable Chart of eight restaurants in shopping centres showing the rental rate applied by the City and the actual rental rate. The restaurants ranged in size from 2,071 square feet to 25,944 square feet compared to the subject restaurant with 3,608 square feet. The assessed per square foot rates ranged from \$18.00 to \$75.00 and the actual rental rates ranged from \$18.46 to \$75.00 per square foot. The chart included a column showing the percentage difference between the two rates that ranged from 70% to 119%. The difference in the rates for the subject property was 146% which reflected a wider disparity between the actual rate and the rate used by the City.

[8] The Complainant also stated that the vacancy shortfall rate applied by the City was too low at \$8.00 per square foot and that a rate of \$16.75 per square foot should have been used. To support this position, the Complainant provided an Assessment Comparable Chart listing the vacancy shortfall rates applied by the City on 12 shopping centres. The rates ranged from \$20.00 to \$30.00 per square foot with a median of \$25.00, above the requested and actual rate.

[9] During the hearing the Complainant questioned the Respondent as to the reason for the subject property being assessed as a “plaza” rather than a “neighborhood shopping centre”. The Respondent described the attributes of a plaza and stated that the subject property best fit in the plaza category as a neighborhood shopping centre would typically have a supermarket as an anchor tenant and may include free standing buildings which the subject property does not.

[10] The Complainant included an Operating Costs Comparison Chart of 11 shopping plazas whose vacancy shortfall costs averaged \$8.70 per square foot and argued that the subject property, with an actual operating cost of \$16.75 per square foot had costs more reflective of a shopping centre. The Complainant argued that the City’s application of \$8.00 per square foot was merely taken from the properties assessed as plazas and did not consider the uniqueness of the subject property with its enclosed mall and corresponding higher heating and maintenance costs.

[11] The Complainant requested that the assessment be reduced to \$2,838,500 based on the rental rate for the restaurant being \$11.00 per square foot and the vacancy shortfall for the subject property increased to \$16.75 per square foot.

### **Position of the Respondent**

[12] The Respondent presented evidence and detailed its position as being legislated to utilize mass appraisal when preparing assessments for all retail and retail plaza properties. This involves the grouping of similar properties and identifying common attributes.

[13] For the purpose of mass appraisal within the confines of the Municipal Government Act, the Respondent described typical market rental rates as being more appropriately used than the actual rents in place. Current economic or market rents are used to form the basis of valuation as opposed to actual rents because in many cases the actual rents reflect historic revenues derived from historic leases negotiated before the valuation date.

[14] The Respondent provided comparable rents for 12 restaurants, each located on the main floor of their premises. Their per square foot rent ranged from \$11.50 to \$25.00 with a median of \$18.00 and whose area ranged from 1,001 to 5,000 square feet. The subject restaurant's assessed rental rate of \$16.00 is supported by the comparables.

[15] The Respondent also provided operating cost shortfalls for five CRU spaces, including two in the subject property, and one restaurant space located in retail plazas. The operating costs per square foot ranged from \$4.80 to \$14.00 with an average of \$8.28 which supports the \$8.00 vacancy shortfall applied to the subject restaurant.

[16] The Respondent addressed the Complainant's comparable shortfall allowance in 12 shopping centres and noted that the shopping centres ranged in size from 187,473 square feet to 977,505 square feet while the subject property has 28,411 square feet. The restaurants in these shopping centres ranged in size from 1,069 square feet with rent of \$75.00 per square foot to 25,944 square feet with rent of \$25.00 per square foot. The properties were described as dissimilar and not comparable to the subject property.

[17] The Respondent included Municipal Government Board Order 038/06 in its evidence and referred to the Reasons for the decision and quoted "*The Matters Related to Assessment and Taxation Regulation AR 220/2004* requires that an assessment based on the valuation standard of market value must reflect typical market conditions for similar property." The Respondent stated that the differences between the subject property and the Complainant's comparable properties are substantial and therefore cannot be assessed equally.

[18] The Respondent noted that the lease for the restaurant space relied on by the Complainant is dated after the valuation date and can only be used for trending, not to establish market value. As well, the Complainant's argument that the subject property should be assessed as a shopping centre would result in application of different rental rates, vacancy rates, structural allowances, vacancy shortfall rates and capitalization rates. The Complainant's request for only pieces of the shopping centre to apply would be in violation of the legislation on mass appraisal.

[19] The Respondent requested the Board to confirm the 2014 assessment in the amount of \$3,213,500.

### **Decision**

[20] The Board confirms the 2014 assessment in the amount of \$3,213,500.

### **Reasons for the Decision**

[21] The Board places greatest weight on the Respondent's 12 comparable rents for restaurants whose median rent of \$18.00 per square foot supports the subject property's main floor restaurant assessment at \$16.00.

[22] The Board finds the actual lease rate of \$10.98 per square foot for the restaurant space to be well below the typical market rents provided by the Respondent. Furthermore, the restaurant rental rates provided by the Complainant range from \$18.00 to \$75 per square foot and support the typical market rents.

[23] The Board places no weight on the Complainant's restaurant rate or occupancy shortfall rates in the major shopping centres. The subject property has no similarities with the shopping centres and the comparisons are not considered.

[24] The Board accepts the Respondent's operating cost shortfall comparables which average \$8.28 per square foot and support the assessment at \$8.00 per square foot.

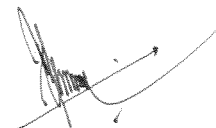
[25] The Board heard the Complainant's argument relative to whether the subject property should be assessed as a plaza or a neighborhood shopping centre due to the uniqueness of the subject property. The definitions and characteristics may not be definitive enough to make it clear but rather the subject appears to straddle the two shopping centre types. However, the City finds that it is a best fit in the Retail Plaza Inventory and described the additional changes that would need to be made if assessed in the shopping centre model.

### **Dissenting Opinion**

[26] There was no dissenting opinion.

Heard July 2, 2014.

Dated this 24<sup>th</sup> day of July, 2014, at the City of Edmonton, Alberta.



---

Tom Eapen, Presiding Officer

### **Appearances:**

Jordan Nichol  
for the Complainant

Tracy Ryan  
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.*

## Appendix

### Legislation

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.

### Exhibits

C-1 – Complainant’s Submission

R-1 – Respondent’s Submission