EDMONTON
Assessment Review Board

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NOTICE OF DECISION NO. 0098 61/12

Altus Group
780-10180 101 ST NW
Edmonton, AB T5J 3S4

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 (the Board) from a hearing held on June 13, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2222180	12852 141 Street NW	Plan: 6066NY Block: 4 Lot: A	$883,000	Annual New	2012

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: Wessel Freiherr Von Loe

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 879

Assessment Roll Number:	2222180
Municipal Address:	12852 141 Street NW
Assessment Year:	2012
Assessment Type:	Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
James Wall, Board Member
Brian Hetherington, Board Member

Background

[1] The subject is a 12,604 square foot class C suburban office building occupying a 43,056 sq.ft. lot in the 149 Street district. The one-storey property has 10,898 sq.ft. of office space occupied by two tenants and two small storage spaces of 1,244 and 462 sq.ft. The 2012 assessment was prepared by the capitalized income approach.

Issue(s)

[2] The complaint form outlined nine separate issues, but the Board heard evidence and argument on a single issue:

> **Should the $9 office lease rate employed in the 2012 assessment be reduced to the requested rate of $7.50 per square foot?**

Legislation

[3] The Municipal Government Act reads:

***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

[4] The Complainant took no issue with the storage space lease rates nor any of the other assessment parameters except the office lease rate. The Complainant advanced the view that the best market rent indicators are those leases negotiated for the subject property if those leases were agreed near the valuation date. In this case, a former tenant had a lease that expired January 31, 2011 and had unsuccessfully attempted to sublet the 4,957 sq.ft. space. That lease was terminated one month early by agreement, allowing some time for repairs in advance of a new tenant occupying the space under a lease dated February 1, 2011 for a term of five years at a rate of $6.85 per sq.ft. As this lease was signed near the July 1, 2011 valuation date it provides the best evidence of market demand and appropriate rent for the subject.

[5] The remaining 7,647 sq.ft. of office space was leased at escalating rates for a five year term commencing January 1, 2010. The first year rate was $4.75 per sq.ft., stepped up to $5 in year two, 2011, and subsequently to $5.50 and $5.75 in the remaining years.

[6] The Complainant advocated that the market rent for the subject, as of the valuation date, should be no higher than $7.50 per sq.ft. That rate was higher than the current leases in place, but also encompassed an optimistic view of rental upside for a potential purchaser of the property. In response to Respondent questions whether the property was underperforming, the Complainant suggested that the subject, due to its location, seemed to have lower demand than superior buildings.

[7] Employing a $7.50 per sq.ft. office lease rate in a recalculated assessment proforma, with other parameters unchanged, resulted in the requested assessment of $713,000.

Position of the Respondent

[8] The requested office rental rate of $7.50 per sq.ft. is site specific, but the Respondent is required to use mass appraisal to determine market typicals. The subject has been treated the same as other class C properties, though it was noted that there was not a lot of information available regarding this class of property.

[9] Request for Information (RFI) returns for the years 2011, 2010, and 2009 were supplied and verified the Complainant's information with regard to the current leases. It was pointed out that prior returns showed the larger space was a lease renewal of an original January 2005 lease that specified $4.25 per sq.ft. the first three years and $4.50 for the final two years. The current lease, therefore, had started at only $0.25 higher than the previous rate. The smaller space rented at $6.85 per sq.ft. from February 1, 2011 but the RFI dated April 2009 showed that the previous tenant had paid an identical $6.85 per sq.ft. annual rent under the terms of a lease dating to February 2006. The Respondent questioned whether the current lease reflected current market rates, and ventured it did not, as it duplicated the same rate the previous tenant had negotiated in 2006.

[10] A Suburban Valuation Rate chart was introduced, showing the parameters for all suburban offices. Class C properties in the 149 Street market area are all assessed at a $9 office rate with a 15% vacancy allowance and 8% cap rate. There are five properties including the subject in this category and all were listed in a further chart showing their assessed values, their office areas all attracting a valuation of $73.09 per sq.ft.

[11] Third party real estate market surveys from Colliers and Avison Young indicated average office rents of $14-$16 in the 149 Street area, undifferentiated as to class. On the same basis DTZ Barnike reported a $15.47 average for Q2 2011. Leasing information sheets showed asking rates of $10, $12.50, and $16 for space in some of the comparable class C buildings in the 149 Street inventory. A Network sale sheet showed that one of the class C buildings sold February 1, 2011 for $1,250,000 compared to its assessed value of $853,000 (2012). The comment portion of that sale sheet showed the main floor had been rented at $10.05 per sq.ft., after being offered for lease at $12.50 per sq.ft.

Decision

[12] The Board confirms the assessment of $883,000.

Reasons for the Decision

[13] The two leases in place at the subject property strike the Board as being low and very low in relation to the City's $9 per sq.ft. class C typical lease rate, and in at least one instance, a $10 rate achieved by a similar nearby property.

[14] Like other class C properties, the subject was described as "tired". At a minimum, it would benefit from a change of carpet. Beyond the need for cosmetic improvements, the Board heard no explanation to account for the low lease rates prevailing at the subject. There was no mention of possible design flaws, functional obsolescence, or a blighted neighbourhood. Neither has the subject demonstrated a history of elevated vacancy.

[15] In assessing class C suburban offices, the City's income approach makes allowance for a 15% vacancy rate and concomitant operating shortfall. Together, these deductions serve to produce a net operating income sharply discounted from the typical potential gross income. If the Board were to accept the proposition that $7.50 or even $6.85 was an appropriate per sq.ft. lease rate for the subject's assessment, it would easily follow that a vacancy allowance of 0% or some

other very low number was just as appropriate. Substituting $7.50 and $6.85 lease rates, and zero deductions for vacancy and operating shortfall, but leaving all other income approach parameters unchanged, would produce value estimates for the subject of $1,088,000 and $1,001,000 respectively. Once again, the assessed value is $883,000.

[16] As a further check of the assessment, the Board looked at the sale of the class C property noted by the Respondent. Its building area is 11,937 sq.ft. spread over 3 storeys, compared to the 12,604 sq.ft. area of the subject, all main floor but not all finished space. The assessments of the two are quite similar: $853,000 versus $883,000. The comparable building sold for $1,250,000 to a purchaser with plans to occupy the upper two floors. The Board recognizes the assessment was not prepared on the sales comparison approach, but is nonetheless intrigued to note that the subject building occupies a lot of almost an acre according to the Complainant's information. Meanwhile, the property that sold has a lot size of 14,982 sq.ft. or about one-third of an acre. The inescapable conclusion is that the $883,000 assessment is not excessive.

Heard June 13, 2012.
Dated this 12th day of July, 2012, at the City of Edmonton, Alberta.

John Noonan, Presiding Officer

Appearances:

Kerry Reimer, Altus Group
for the Complainant

Tanya Smith, Legal Counsel
Tracy Ryan, Assessor
for the Respondent