

NOTICE OF DECISION NO. 0098 141/12

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 (CARB) from a hearing held on August 7, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3137304	10519 104 Avenue NW	Plan: B2 Block: 5 Lot: 161 / Plan: B2 Block: 5 Lot: 162	\$2,106,000	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: MELCOR DEVELOPMENTS LTD

Edmonton Composite Assessment Review Board (CARB)

Citation: Melcor Developments Ltd. represented by Altus Group v The City of Edmonton, 2012 ECARB 1047

Assessment Roll Number: 3137304
Municipal Address: 10519 104 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

**Melcor Developments Ltd.
Represented by Altus Group**

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

**DECISION OF
Don Marchand, Presiding Officer
Brian Carbol, Board Member
John Braim, Board Member**

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. The Board members indicated they had no bias in the matter before them. The parties providing evidence were sworn in.

Background

[2] The subject property is located in the downtown district and comprises a car sales lot with paving. The land contains 14,988 sq ft and a sales office of 595 square feet, which was removed prior to the hearing. The property is a corner lot that fronts 106th Street and 104th Avenue, a busy traffic artery that services the downtown financial district.

Issue(s)

[3] Does the current assessment of \$2,106,000 represent market value?

Legislation

[4] 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.

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.

[5] The CARB gave consideration to the meaning of market value and to the requirements of an assessment made pursuant to market value.

[6] The *Matters Relating to Assessment and Taxation Regulation* reads:

Matters Relating to Assessment and Taxation Regulation, Alta. Reg. 220/2004

S 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

Position of the Complainant

[7] The Complainant filed this complaint on the basis that the 2012 assessment of the subject property exceeded its market value. In particular, the Complainant stated that the subject property sold for \$1,750,000 on July 27th, 2011, very close to valuation day (C-1, page 6). This equates to a unit rate of \$116.67 per sq ft compared to the assessment of \$140.08 per sq ft.

[8] In support of the argument and the sale of the subject property, the Complainant provided seven vacant land sales to demonstrate that the subject has been assessed in excess of the market value (C-1, page 13). Like the subject, the sales are all located in the downtown district, some being in the core financial area and some in the urban warehouse district immediately to the west of the subject. Five of the seven sales also have a land use designation of UW (urban warehouse) like the subject.

[9] The seven sales ranged in size from 7,499 sq ft to 37,440 sq ft and sold between April 2006 and August 2007. Six of the comparables were also corner locations, like the subject. The eight time adjusted unit prices for the sales ranged from \$98.26 to \$176.95 per sq ft. The average price of all the sales in the chart was \$124.84 per sq ft and the median price was \$116.62 per sq ft. As there were a total of eight sales including the subject, the Complainant argued that the median price, as opposed to the average price, was the most meaningful measure because it dispenses with any outliers (C-1, pages 43 – 47). The fourth sale with a unit rate of \$176.95 per sq ft is not influencing the median sale price of \$116.62 per sq ft. The Complainant argued that this median rate gives excellent support to the actual sale price of \$116.67 per sq ft, which is substantially less than the \$140.08 per sq ft assessed unit rate value.

[10] In response to questioning, the Complainant stated that the median assessment excluding the subject property also resulted in a unit rate of \$116.57 per square foot, which also supports the sale price and a reduction in the assessment.

[11] The Complainant also provided a 2011 CARB decision (C-1, pages 36 – 42) wherein the Respondent utilized a validated sale to support their assessment (#8: 10160 106 Street). In view of this, the Complainant wondered why this same sale is now being disputed as a questionable sale.

[12] In conclusion, the Complainant requested that the Board reduce the rate to \$116.50 per square foot to reflect the actual sale price, which is the best evidence of market value. The Complainant stated that this was also supported by the median sale price for the seven nearby sales, and requested an assessment in the amount of \$1,750,000.

Position of the Respondent

[13] In support of the assessment, the Respondent provided four vacant land comparable sales also located in the downtown district (R-1, page 8). The four sales were designated a CB2 effective land use code and ranged in size from 7,499 to 22,188 sq ft. The sales were transacted between March 2006 and August 2007 but were time adjusted to valuation and produced unit rates that ranged from \$116.57 to \$176.95 per sq ft. The average unit rate was \$141.00 per sq ft. The subject is assessed at \$140.08 per sq ft with the value of the sales office included.

[14] The Respondent also supplied an equity chart of four assessments to demonstrate that the subject property assessment was fair and equitable (R-1, page 22). The four comparables were all corner lots and the chart indicated two of the four comparables had the same land use code as the subject but were effectively all CB2 zoning. The four equity comparables ranged in size from 7,382 to 7,558 sq ft, and deducting for paving resulted in land assessments of \$139.52 to \$139.55 per sq ft. The average unit price for the four sales is \$139.54 per sq ft, which supports the assessed value at \$139.37 per sq ft (without the sales office).

[15] The Respondent pointed out that the four of their sales were also presented by the Complainant. However, in rebuttal to the Complainant's evidence, the Respondent provided information on two of the Complainant's sales indicating that they had some concerns with the validity of those sales.

[16] The Respondent submits that the Complainant's sale #1 at 10204 105 Street was purchased by the City of Edmonton and was reported to be "at less than the updated indication of market value". The Respondent stated that this would suggest a unit price higher than \$103.94 per sq ft would be applicable.

[17] With regard to the Complainant's sale #2 at 10160 106 Street, the Respondent indicated that the sale documentation supplied show that the respective transfer dates were not consecutive and therefore the sale was suspect.

[18] The Respondent concluded by stating that the Complainant's eight sales ranged from \$98 per square foot to \$176 per square foot, which was a wide range in value. The Respondent also identified concerns with three of the sales. The Respondent had provided four sales in common showing a range from \$117.00 to \$176.00 per square foot and the assessment clearly fell within this range. The Respondent stated that the sale of the subject was a good indication of value but

was not sure if the value of the building was included in the sale. The Respondent requested that the CARB confirm the assessment at \$2,106,000.

Findings of the Board

[19] The subject sold reasonably close to the valuation date.

[20] The square foot sales price of the subject is within the per square foot ranges presented by both parties.

Decision

[21] The 2012 assessment of Roll Number 3137304 is reduced to \$1,750,000.

Reasons for the Decision

[22] There was no argument regarding the value of the improvement at \$182,000 as set out in the assessment details. The Complainant stated that the building was not present at the current time and the Respondent stated that it was present at December 31, 2011, and had been included in the assessment. In argument, the Complainant pointed out that only paving was accounted for in the Respondent's evidence.

[23] The Board noted that the assessment had been produced by the income approach to value wherein no value had been attributed to the paving. The Board also noted that the subject property had a site coverage ratio of only 4% and concluded that the income approach would be less likely to capture the true market value due to the uncertainty of estimating the large amount of excess land.

[24] The Board's opinion is that a direct comparison approach would appear to be the only market-orientated way of capturing the land value. The value of the improvements could best be captured by a depreciated capital cost analysis.

[25] The Board was persuaded by the Complainant's seven comparable sales. Four of the sales had also been utilized by the Respondent with no disagreement with respect to the sizes, the time adjustment factors and the resulting time adjusted unit rates. The four common sales comparables were located at 10178 103 Street; 10233 105 Street; 10350/64 105 Street and 10163/69 108 Street. The Board then considered the evidence relating to the Complainant's three remaining sales.

[26] With regard to the comparable sale at 10120 108 Street, the Respondent stated that this sale was part of a larger package for future development. On questioning, the Respondent withdrew the comments. The Board therefore concludes that this was in fact a valid sale.

[27] The Respondent stated that the sale at 10212/30 105 Street was purchased by the City of Edmonton and could not be considered as true market value due to the lack of exposure. In support of their argument the Respondent provided a copy of an e-mail request/response regarding this transaction (R-1, page 38). The Board was not persuaded by this information as not only were copies of the original appraisal or the updated appraisal not provided, but the subsequent reference to the "2nd Offer signed by the owners for a purchase amount at less than the updated indication of market value" was, in the eyes of the Board, not site-specific (i.e. the address referred to was incorrect). Furthermore, if it did refer to the comparable sale in question,

the Board was not able to determine if the second appraisal was in fact a higher or lower amount than the original appraisal and if the resulting deal was at market value or not. The Board is of the opinion that the City of Edmonton would not pay any amount for any property that was not consistent with market value. The Board therefore concludes that this sale appears to be valid from the supporting information supplied.

[28] The Respondent provided transfer documents with respect to the Complainant's sale at 10160 108 Street with particular reference to the transfer dates. The initial sale transfer document was from 1014844 Alberta Ltd to Sierra Developments Inc. effective March 30, 2006. A subsequent sales document indicated that Craig Buildings Ltd sold the property to 1014844 Alberta Ltd effective April 5, 2006. The Respondent stated that, due to the apparent discrepancy of the dates, this sale had to be considered suspect. The Complainant, however, referred the Board to a recent CARB decision (C-1, page 39) wherein the Respondent had used the same sale (#8: 10160 106 Street) to defend their position and argued that the Respondent had already utilized this property as a valid sale. In view of the fact that the Respondent had presented this as a valid sale in a previous hearing, the Board finds that it is a valid sale.

[29] After reviewing the three sales under question by the Respondent, the Board is of the opinion that the three sales are valid sales and should be given the same weight as the other four sales that both parties have in common.

[30] The Board then turned its attention to the equity analysis provided by the Respondent. The four equity comparables clearly demonstrated that each comparable was equitably assessed compared to the other three comparables and the map supplied clearly showed they were all corner locations like the subject. The Board noted that one of the equity comparables was located in the government centre area, and placed little weight on this sale as it was not located in the urban warehouse district like the subject. The Board also noted that all four equity comparables were half the size of the subject. In response to questions, the Respondent argued that size adjustment had not been applied as the "economies of scale" did not apply to these properties since bigger lots were more valuable in the downtown area. The Board noted, however, that there was no supporting information for this statement. Further reference to the Complainant's sales also clearly showed that the three largest parcels had sold towards the lower end of the range and averaged less than \$110.00 per square foot. The Board therefore placed little weight on Respondent's equity argument.

[31] The Board finds that the Complainant's seven sales comparables, four of which were common to both parties, were the most meaningful evidence of the market value of the subject property. The Board accepts the hypothesis that the median, as opposed to the average, is the most meaningful market evidence from which a single figure estimate can be derived as the sale at \$176.95 per sq ft does appear to fall well outside the range of all the other unit rates.

[32] The Board also finds that credence for this sale as an outlier is supported by the Respondent's assessment of half of this parcel at a lower rate, \$139.55 per sq ft (R-1, page 22, Tax Roll 10014639).

[33] The sale of the subject property is well supported by the market analysis and has also been confirmed as the most meaningful evidence of value by numerous levels of tribunals, particularly where it has taken place relatively close to valuation day. There has been very little evidence to the contrary.

[34] Based on the above reasons, the Board finds that the actual unit sale price of \$116.67 per sq ft is the best indicator of the market value of the subject property and should result in a revised assessment as noted above.

Heard commencing August 7, 2012.

Dated this 17th day of August, 2012, at the City of Edmonton, Alberta.

Don Marchand, Presiding Officer

Appearances:

Chris Buchanan, Altus Group

John Trelford, Altus Goup
for the Complainant

Tanya Smith, Legal Counsel, City of Edmonton

Chris Rumsey, Assessor, City of Edmonton
for the Respondent