



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 143/10

Altus Group Ltd
17327 - 106A Avenue
Edmonton, AB T5S 1M7

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 10, 2010 respecting a complaint for:

Roll Number	Assessed Value	Municipal Address	Legal Description	Assessment Type	Assessment Notice for
3189065	471,000	10405 120 Street NW	Plan:4423AJ Block: 18 Lot: 55 / 56 / 57	Annual New	2010
10005778	695,000	Null	Plan: 4423AJ	Annual New	2010

Before:

Lillian Lundgren, Presiding Officer
Petra Hagemann, Board Member
Howard Worrell, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant
John Trelford, Altus Group

Persons Appearing: Respondent
Chris Rumsey, Assessment and Taxation Group
Tanya Smith, Law Branch

PRELIMINARY MATTERS

A. REQUEST TO EXCLUDE THE RESPONDENT'S EVIDENCE

The Complainant submits that the Respondent provided no written argument in its disclosure and according to the *Matters Relating to Assessment Complaints Regulation* (MRAC), AR 310/2009 section 8(2)(b)(i) it is required to do so.

The Complainant states that it provided written argument in its disclosure of evidence and the Respondent municipality should do the same. The Complainant referenced examples in its documentary evidence that demonstrated it had provided indications of value based on sales and equity comparables. As well, it provided a brief written conclusion to its argument and request.

The Respondent stated that the sales and assessment comparables used to defend the assessments were disclosed in the documentary evidence showing the same level of detail as the Complainant's sales and equity comparables. The conclusions are obvious based on the information in the tables. For example, the average time adjusted sale price (tasp) of the properties which sold can be compared with the assessments of the two properties under complaint.

The Respondent notes that the Complainant made no mention of this matter in its rebuttal to the Respondent's disclosure.

DECISION

The request to exclude the Respondent's evidence is denied.

REASONS

The Board reviewed s.8(2)(b)(i) of MRAC which states:

"If a complaint is to be heard by a composite assessment review board, the respondent must, at least 14 days before the hearing date, disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing."

The Board finds that the disclosure of evidence by the Respondent is satisfactory to allow the Complainant to respond or rebut the evidence at the hearing. The Respondent's sales comparables were set out clearly in a table and supporting documents from third party sources were disclosed. The sales data sheets for each of the sales comparables provide additional information about the sold property.

The Board finds no prejudice to the Complainant as a result of there being no written argument in the Respondent's disclosure because the documentary evidence is clear. However, the Respondent has provided the minimum amount of information to meet the requirement of s.8(2)(b)(i) and it would be helpful to the Complainant and the Board if the Respondent provided a brief written argument and conclusion.

B. REQUEST TO EXCLUDE THE PHOTOGRAPHS IN THE RESPONDENT'S EVIDENCE PACKAGE

The Complainant objected to the photographs on page 14 and 15 of exhibit R1 because they had no addresses and the Complainant did not recognize either of the properties.

The Respondent explained that the two photographs were taken of the Complainant's two sales comparables at 10215 121 Street NW and 10349/ 53 122 Street NW. The Respondent stated that the Complainant made no reference to this matter in its rebuttal and could have done so if it was a problem.

DECISION

The request to exclude the Respondent's photographs is denied.

REASONS

While the Board agrees with the Complainant that photographs should be identified in the documentary evidence, this situation is somewhat different. The Complainant chose these two properties as sales comparables and should have recognized the properties in the photographs. The Board finds no prejudice to the Complainant.

MERIT HEARING

BACKGROUND

The two subject properties are vacant parcels of land zoned CB-2 and located next to one another on 104 Avenue. Properties located on 104 Avenue are assessed higher than properties in the same neighborhood of Oliver which do not front onto 104 Avenue. The second subject property, P:4423AJ, is assessed at a lower rate per square foot because of a size adjustment owing to its larger size.

10405 120 Street NW is a 7,488 square foot lot assessed at \$471,000 (\$62.90/ sq. ft.).

P:4423AJ (bylaw closure 2742) is an 11,979 square foot lot assessed at \$695,000 (\$58.02/ sq. ft.).

ISSUES

1. What is the correct rate per square foot for the subject properties?
2. Are the subject properties equitably assessed with similar properties?

The only issues that the Complainant brought forward in the hearing before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised by the Complainant on Schedule 1.

LEGISLATION

The Municipal Government Act, R.S.A. 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

With respect to the first issue of correctness, the Complainant argued that the subject properties are assessed in excess of market value. In support of this argument, the Complainant submitted the sales of two properties. The first property located at 10215 121 Street NW is zoned DC-1 (effective zoning RF-6) and sold in March 2007 for a tarp of \$625,000 (\$33.92/ sq. ft.). The second property located at 10349/53 122 Street NW is zoned RA-7 and sold in March 2006 for a tarp of \$570,000 (\$48.51/ sq. ft.). These sold properties average \$41.22/ sq. ft. which indicates a value of \$308,500 for the subject property at 10405 120 Street NW; and a value of \$493,500 for the subject property at P:4423AJ.

Respecting the second issue of equity, the Complainant argued that the two subject properties are inequitably assessed with similar CB-2 properties in the neighborhood. The Complainant

presented five assessment comparables zoned CB-2 and assessed at \$35.45/ sq. ft. Based on \$35.45/ sq. ft., the subject property at 10405 120 Street NW should be assessed at \$265,000; and the second subject property, P:4423AJ should be assessed at \$424,500.

In conclusion, the Complainant is requesting the assessments be reduced to \$265,000 for 10405 120 Street NW and \$424,500 for P:4423AJ.

POSITION OF THE RESPONDENT

The Respondent explained that commercial vacant land is assessed at a base rate of \$48.90/ sq. ft. and adjusted for factors which affect the market value such as location, lot size, corner lot and so forth. The subject property at 10405 120 Street is assessed at \$62.90/ sq. ft. and the base rate was adjusted for the location on 104 Avenue and lot size. The other subject property, P:4423AJ is assessed at \$58.02/ sq. ft. and the base rate was adjusted for location on 104 Avenue and lot size.

In support of the assessed values for the subject properties, the Respondent submitted two sales comparables. The first sales comparable located at 10504 121 Street NW is zoned CB-2 and sold in May 2006 for a tarp of \$805,390 (\$65.98/ sq. ft.). The second comparable located at 10315 124 Street NW is zoned CB-1 and sold in February 2007 for a tarp of \$2,189,760 (\$100.67/ sq. ft.). These two sales average \$83.33/ sq. ft. which is above the assessed values per square foot of the subjects.

In respect of equity, the Respondent argued that the subject properties are equitably assessed with similar vacant commercial land located on 104 Avenue in Oliver. The Respondent explained that the same base rate was used to prepare the assessments of all similar properties and adjustments were made for size and location. During the course of the complaint process, the Assessor noticed that a property described as Plan: 4423AJ Block:19 Lot 340 was not adjusted for the location on 104 Avenue and the Assessor increased the rate per square foot to \$62.95/ sq. ft.

The Respondent noted that the reason that all of the Complainant's assessment comparables were at \$35.45/ sq. ft is because none of these properties are located on 104 Avenue and they are not similar to the subject properties for that reason.

In conclusion, the Respondent requests the CARB to confirm the assessments for each of the properties under complaint.

FINDINGS

1. The assessed rates used to prepare the assessments are correct.
2. The subject properties are equitably assessed.

DECISION

The Complaints are denied and the property assessments are confirmed as follows:

Roll Number 3189065 is confirmed at \$471,000.

Roll Number 10005778 is confirmed at \$695,000.

REASONS FOR THE DECISION

Respecting the issue of correct rate per square foot, the Board reviewed the sales comparables put forth by both parties and finds the sales presented by the Respondent to be the best indication of market value. The Complainant's sales were inferior to the subject properties because they are zoned multi-family residential and are not located on 104 Avenue. The Respondent's sales are zoned CB-2 and CB-1 respectively, which is similar to the zoning of the subjects. The Respondent's sales are located in inferior locations to both subject properties, as they are not located on 104 Avenue; nevertheless, these sales support the assessments.

The Board is not persuaded to alter the assessment on the basis of an inequity because none of the Complainant's assessment comparables are in a similar location.

Accordingly, the property assessments are confirmed.

DISSENTING DECISION AND REASONS

None.

Dated this 18th day of August, 2010, at the City of Edmonton, in the Province of Alberta.

Presiding Officer

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, R.S.A. 2000, c.M-26.

CC: Municipal Government Board
Crosstown Land Holdings Ltd.