

NOTICE OF DECISION NO. 0098 153/12

Altus Group
780-10180 101 Street 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 16, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9435546	2210 50 Street NW	Plan: 7721180 Block: 3 Lot: 33	\$12,574,000	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: CROMBIE PROPERTY HOLDINGS LIMITED

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 559

Assessment Roll Number: 9435546

Municipal Address: 2210 50 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
Robert Mowbrey, Presiding Officer
Petra Hagemann, Board Member
Dale Doan, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board members expressed no bias with respect to this matter.

Background

[2] The subject property is a 55,976 square foot (sq. ft.) retail store located at 5011 23 Avenue NW. The subject property is part of a 287,785 sq. ft. parcel of land. The 2012 assessment is \$12,574,000.

Issue

[3] Is the subject assessment of \$12,574,000 in excess of its market value as of the valuation date?

Legislation

[4] The *Municipal Government Act* reads:

Municipal Government Act, RSA 2000, c M-26

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

[5] The Complainant filed its complaint on the basis that the subject property's assessment of \$12,574,000 was in excess of market value and that the 25% site coverage used to calculate the excess land is too high. In support of its position, the Complainant presented the Board with a 35-page evidence package (Exhibit C-1).

[6] The Complainant agreed that there is excess land on the subject property site; however, the Complainant argued that the amount of 82,403 sq. ft. applied to the assessment by the City is incorrect and should be reduced to 33,067 sq. ft.

[7] The Complainant advised the Board that the subject property has two sites that are proposed to be developed. The first is a 14,667 sq. ft. pad site of excess land (15% site coverage) for a 2,000 sq. ft. Harvey's Restaurant and the second is an 18,400 sq. ft. site of excess land (25% site coverage) for a 4,600 sq. ft. multi-bay retail building. Both of these sites contribute 33,067 sq. ft. of excess land to the subject property.

[8] The Complainant informed the Board that the remaining 49,336 sq. ft. of excess land (82,403 – 33,067) is required due to Site Specific Zoning Requirements (Exhibit C-1, page 24), which outlines in DC2.425.4 9 (c) and (d) the minimum requirements for landscaped setbacks adjacent to 23rd Avenue, 50th Streets, and areas abutting single detached residential developments. These setbacks and landscaping requirements are in excess of typical retail development setbacks and thus reduce the site coverage significantly below the typical 25%. On the site drawing for the Development Permit (Exhibit C-1, page 21), the Complainant illustrated the calculations for the area of landscaping required.

[9] The Complainant provided the Board with four comparable land sales in south east Edmonton ranging in site area from 135,433 sq. ft. to 239,568 sq. ft. and ranging in sale date from November 2006 to January 2010. The time adjusted sales prices per sq. ft. ranged from \$17.90 to \$22.19. The Complainant is of the opinion that \$24.50 per sq. ft. for the excess land is too high and requested the Board to reduce this to \$20.23 per sq. ft. (C-1 page 12).

[10] The Complainant asked the Board to reduce the assessment of the subject property to 33,067 sq. ft. of excess land valued at \$20.23 per sq. ft. for a total amount of \$11,224,500.

Position of the Respondent

[11] In defense of the 2012 assessment of the subject property, the Respondent presented the Board with a 94-page brief (Exhibit R-1).

[12] The Respondent advised the Board that the subject's assessment was prepared using the Income Approach to value.

[13] The Respondent illustrated the calculation of the excess land for the subject on page 13 of Exhibit R-1. The footprint of the Sobeys grocery store (48,274 sq. ft.) and the Western Cellar Liquor store (3,074 sq. ft.) equals 51,348 sq. ft. which is 18% of the site area. If the footprint of the buildings was 25%, the land size would have to be 205,392 sq. ft. instead of 287,795 sq. ft.; the difference being the 82,403 sq. ft. of excess land.

[14] During questioning by the Complainant, the Respondent explained that due to its irregular shape, a "moderate" attribute had been applied to the subject, effectively reducing the assessment by 10% (Exhibit R-1, page 14).

[15] The Respondent submitted three comparable land sales to justify the \$24.50 per sq. ft. attributed to the assessment of the excess land of the subject. These sales ranged in date of sale from July 2009 to June 2011. Their land sizes ranged from 36,626 sq. ft. to 135,433 sq. ft. compared to the land size of the subject at 287,785 sq. ft. The time adjusted sales price of these properties ranged from \$22.19 per sq. ft. to \$26.27 per sq. ft. supporting the \$24.50 per sq. ft. applied to the excess land assessment of the subject. (R-1 page 24).

[16] The Respondent provided the Board with a rent roll on the two properties. (R-1 page 23).

[17] In conclusion, and taking into account 82,403 sq. ft. of excess land at \$24.50 per sq. ft., the Respondent asked the Board to confirm the 2012 assessment of the subject property of \$12,574,000.

Decision

[18] The decision of the Board is to reduce the 2012 assessment of \$12,574,000 to \$12,223,000.

Reasons for the Decision

[19] The Board reviewed both the Complainant's evidence and testimony and the Respondent's evidence and testimony. The Board found the Respondent's argument of what constitutes excess land more compelling and found the Complainant's argument regarding value of the excess land more compelling.

[20] The Board is persuaded by the Respondent's calculation of excess land. The footprint of the two buildings is 51,348 sq. ft. (48,274 sq. ft. + 3,074 sq. ft.). Using the building footprint of 51,348 at 25%, the threshold coverage is 205,392 sq. ft. Therefore, the excess land is 81,403 sq. ft. (287,795 - 205,392). The Complainant's argument hinges on future development; however, the Board only considers what is developed at the July 1st valuation date and the December 31st

condition date. As a result, the Complainant was unable to persuade the Board regarding the significant amount of landscaping and how much more land is provided over the typical amount of land needed.

[21] The Board is persuaded by the Complainant's sales comparables regarding the land component. The four land comparables are similar in size. The Board recognizes the first two of the Complainant's comparables are dated. The Board notes that the Complainant and the Respondent both used the property at 1704 34th Avenue as a comparable. The Board further notes the last two land sales average \$20.83 per sq. ft., which approximates the Complainant's request. The Board is satisfied the Complainant's request of \$20.23 per sq. ft. is equitable and reasonable for the subject property.

[22] The Board is not persuaded by the Respondent's land sales comparables. The land sales are much smaller and therefore the economies of scale suggest the Respondent's per sq. ft. rate is therefore higher. In addition, the subject property has been given a 10% reduction due to site configuration. The Respondent's land sales comparables should therefore be given a 10% configuration deduction to make them comparable with the subject property. While the Respondent stated there could be location factors, the Respondent did not provide any evidence to back up this assertion.

[23] The Board notes there is no disagreement between the Complainant and the Respondent regarding the size of the buildings, the typical rental rates, or the typical capitalization rate utilized.

[24] The Board accepts the Respondent's calculation of excess land at 82,403 sq. ft. and the Complainant's valuation of \$20.23 per square foot for excess land. In applying these revised figures, the Board reduces the value of excess land to \$1,667,000. This results in an overall reduction of the assessment to the value of \$12,223,000.

Dissenting Opinion

[25] There was no dissenting opinion.

Heard commencing August 16, 2012.

Dated this 27th day of August, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

John Trelford, Altus Group
for the Complainant

Alana Hempel, City of Edmonton
Chris Rumsey, City of Edmonton
for the Respondent