



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 162/10

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 3, 2010 respecting a complaint for:

Roll Number 1105873	Municipal Address 12471 153 Street	Legal Description Plan 1738KS Block A Lot 14 et al
Assessed Value \$2,209,000	Assessment Type Annual New	Assessment Notice for: 2010

Before:

Hatem Naboulsi, Presiding Officer
Taras Luciw, Board Member
Anthony Slemko, Board Member

Board Officer:

J. Halicki

Persons Appearing: Complainant

John Trelford, Agent
Director, Realty Tax Consulting
Altus Group Ltd.

Persons Appearing: Respondent

Chris Rumsey, Assessor
Assessment and Taxation Branch
City of Edmonton

PROCEDURAL MATTERS

The Complainant and Respondent expressed no objection to the composition of the Board and the Board Members had no bias to this file.

PRELIMINARY MATTERS

There were no initial preliminary matters. Before the presentation of the Respondent's evidence, however, the Complainant submitted a rebuttal document (exhibit C2) objecting to the admission of the Respondent's submissions, asserting that s. 8(2)(b)(i) of *Matters Relating to Assessment Complaints Regulation* AR310/2009 had not been satisfied.

The Board reviewed the provisions of the aforementioned regulation and concluded that the packages had been exchanged properly. The Board ruled that the Respondent could present his evidence without providing any information that had not been provided in the disclosure package. The Complainant was permitted to object if the Respondent presented evidence outside of the disclosure.

BACKGROUND

The subject property, located in the Gagnon Estate Industrial subdivision, consists of a paved parking lot with a surface area of 114,316 square feet used for casino patron parking. There is no direct access/egress from this parking lot to/from Yellowhead Trail.

ISSUE(S)

Is the subject property fairly and equitably assessed as compared with similar properties in the area?

LEGISLATION

Municipal Government Act, R.S.A. 2000, c. M-26;

s.289 (2) Each assessment must reflect

(b) the valuation and other standards set out in the regulations for that property.

s.293 (1) In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

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.

Matters Relating to Assessment Complaints Regulation AR310/2009

s. 8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(b) the respondent must, at least 14 days before the hearing date,

(i) 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, and

POSITION OF THE COMPLAINANT

In exhibit C1, the Complainant submitted for the Board's consideration, using a direct sales comparison approach to derive land value, ten sales comparables dated from February 2006 to February 2009 (pg. 9) with an adjusted sale price per square foot ranging from \$9.56 to \$22.21 with an average of \$13.11 per square foot. A property at 15360 111 Avenue NW was put forward as the best comparable. Additionally, six equity comparables were presented ranging from \$11.35 to \$15.00 per square foot with an average of \$13.02 per square foot (ibid., pg. 10). The properties at Stony Plain Road and 185 St. and 14740 111 Avenue were presented as being the best comparables demonstrating that the subject property's assessment was not fair and equitable in relation to similar properties. It was pointed out that adjustments for access and corner lot location were necessary.

The Complainant submitted that this property should have been assessed with a neighbouring lot as one property under one roll number rather than two, separate assessable parcels as done by the Respondent. Evidence was submitted to show that several vacant parcels of land, assessed by the City of Edmonton, were grouped under one roll number.

The Complainant requests a reduction in the subject property's 2010 assessment from \$2,209,000 to \$1,607,000 based on equity of similar property assessments or alternatively, based on sales comparables a reduction to \$1,617,500. A final request of a reduction to \$1,607,000 was submitted.

As noted above, the Complainant presented a rebuttal document (exhibit C2) on the preliminary matter.

POSITION OF THE RESPONDENT

The Respondent stated that the 2010 assessment of the subject property had been fairly and equitably assessed as a parcel based upon the principles of mass appraisal. Exhibit R1 contained a chart documenting four sales comparables in the southwest of Edmonton with those sales dated August 2007 and ranging from \$21.64 to \$21.77 per square foot averaging \$21.72 per square foot (R1, pg. 15).

Additionally, three equity comparables (ibid., pg. 16) were presented with one of these located adjacent to the subject property. The average assessment of these comparables was \$17.30 per square foot.

A law and legislation brief (exhibit R2) was also submitted by the Respondent.

DECISION

The Board's decision is to reduce the 2010 property assessment from \$2,209,000 to \$1,690,500.

REASONS FOR THE DECISION

The Board was persuaded by the Complainant's sales which were time-adjusted to an average of \$13.11 per square foot.

The Board found all of the sales presented by the Complainant were closer in proximity and in attributes to the subject property.

The Board also found that the average of the Complainant's equity comparables were close in value to the sales comparables averaging \$13.02 per square foot.

The Board put less weight on the sales comparables presented by the Respondent as they were concentrated in the SW quadrant of Edmonton. The Respondent acknowledged that these sales comparables were better located than the subject property which would, in most cases, lead to a higher value.

The Board was persuaded by the Respondent's equity comparable #1, which is adjacent to the subject property at 12450 149 Street. However, it needed to be adjusted for moderate access and corner location. The Board finds that when this comparable's equity assessment of \$17.40 per square foot is adjusted by 15% (10% for moderate access and 5% for lack of corner location) the result is an assessed value of \$14.79 per square foot. This compares favourably to the Complainant's direct sales comparables averaging \$13.11 per square foot and equity comparables averaging \$13.02 per square foot. The Board applied \$14.79 per square foot for the subject property in arriving at the reduced assessment of \$1,690,500 taking into consideration economies of scale.

Bramalea articulates that where the assessment standard is market value, a taxpayer is entitled to either market value or a value that is fair and equitable in relation to similar properties, whichever is lower. It is a long established principle of assessment that a taxpayer has the right to an assessment not in excess of actual value, and to an assessment that is comparable with similar properties in the municipality.

DISSENTING DECISION AND REASONS

Not applicable.

Dated this second day of September, 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
City of Edmonton, Assessment and Taxation Branch
Sunalta Bingo Ltd.